

# REUBEN, JUNIUS & ROSE, LLP

April 13, 2017

San Francisco Board of Supervisors  
One Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: 799 Castro/3878-3880 21<sup>st</sup> Street  
Project Sponsor's Brief in Opposition to Appeal of Conditional Use  
Hearing Date: April 24, 2018  
Our File No.: 10028.01**

Dear President Breed and Members of the Board:

Our office represents Hatef Moghimi (“**Project Sponsor**”) concerning his proposed project at 799 Castro Street/3878-3880 21<sup>st</sup> Street (the “**Property**”). On February 22, 2018, the Planning Commission approved a Conditional Use Authorization (the “**CU**,” attached as Exhibit A) for a residential project at the Property (the “**Project**”). The Project consists of the following:

- Termination of a noncomplying office use in the one-story building at 799 Castro Street and construction of a new 3-story over basement single-family home; and
- Establishment of a rent-controlled accessory dwelling unit (“**ADU**”) in the existing two-unit residential building at 3878-3880 21<sup>st</sup> Street, replacing a non-existent dwelling unit at 799 Castro Street that was removed from the building many decades ago (the entire building has been used as a legal noncomplying office since at least 1980, and as a grocery store for several decades prior);

The adjacent neighbor has organized this appeal of the Project’s CU, which is the culmination of the neighbor’s ten-year opposition to the Project. The appeal alleges that the Planning Commission issued the Project Sponsor a “blank check in terms of design,” but this is simply not true. The Planning Commission approved a traditional design (see Exhibit B) subject to the following condition of approval:

**Final Design.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance. *For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org).* (See Exhibit A, Condition of Approval No. 6.)

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This design review condition is commonplace with Planning Commission approvals, and allows staff to ensure that the final design is acceptable.

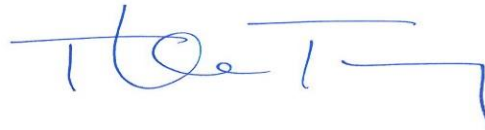
The Project Sponsor worked tirelessly with neighbors, including the adjacent neighbor, to revise the Project and address the neighbors' concerns. The Project Sponsor removed the top floor of the single-family home, and the garage structure in the rear, to reduce the impact on the adjacent neighbor and the overall massing of the proposal. The Project Sponsor even offered two different designs because neighbors were divided as to whether they wanted a contemporary or more traditional design. Ultimately, over 20 neighbors supported the Project. (Exhibit C.)

The adjacent neighbor has fabricated a variety of objections to the Project in an attempt to stop the Project, including filing a request for a Zoning Administrator Letter of Determination, which request alleged various code violations by the Project. The Zoning Administrator issued the Letter of Determination and rebuked each and every allegation. (Exhibit D.) The Project fully complies with all applicable codes and regulations.

Planning Department Staff and the Planning Commission have issued valid, comprehensive, and reasonable approvals of the Project after careful consideration and significant public input. The appeal raises no legal or equitable reason to overturn the CU, but is simply the continuation of one neighbor's ten-year crusade to stop the Project. We respectfully request that the Board deny the appeal and allow this worthy Project to proceed.

Very truly yours,

**REUBEN, JUNIUS & ROSE, LLP**



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Thomas Tunny

Enclosures

cc: Angela Calvillo, Clerk of the Board of Supervisors  
Ryan Patterson  
John Rahaim, Planning Director  
Scott Sanchez, Zoning Administrator  
Nancy Tran, Planning Department  
Hatef Moghimi  
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**EXHIBIT A**



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414)
- Other

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## Planning Commission Motion No. 20118

HEARING DATE: FEBRUARY 22, 2018

Case No.: 2017-004562CUA/DRP & 2008.0410V  
 Project Address: 799 Castro Street & 3878-3880 21<sup>st</sup> Street  
 Zoning: RH-2 (Residential-House, Two-Family)  
 40-X Height and Bulk District  
 Block/Lot: 3603/024  
 Project Sponsor: Thomas Tunny  
 1 Bush Street  
 San Francisco, CA 94104  
 Staff Contact: Nancy Tran – (415) 575-9174  
[nancy.h.tran@sfgov.org](mailto:nancy.h.tran@sfgov.org)

**ADOPTING FINDINGS RELATING TO THE APPROVAL OF CONDITIONAL USE AUTHORIZATION PURSUANT TO PLANNING CODE SECTIONS 303 AND 317 REQUIRING CONDITIONAL USE AUTHORIZATION FOR THE TANTAMOUNT TO DEMOLITION AND REPLACEMENT OF A RESIDENTIAL UNIT.**

### PREAMBLE

On April 13, 2017, Thomas Tunny for Hatef Moghimi (Project Sponsor) filed an application with the Planning Department (hereinafter “Department”) for Conditional Use Authorization under Planning Code Sections 303 and 317 to demolish a residential unit and construct a three-story over basement single-family residence at 799 Castro Street within an RH-2 (Residential, House, Two-Family) District and a 40-X Height and Bulk District. One new accessory dwelling unit is proposed in a detached building on site under a separate permit.

On October 12, 2017, the San Francisco Planning Commission (hereinafter “Commission”) and Zoning Administrator conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2017-004562CUA and Variance Application No. 2008.0410V. The items were continued to December 14, 2017 to include Discretionary Review Application No. 2017-004562DRP that was filed for a separate proposal on the same property. On December 14, 2017, the Commission and Zoning Administrator conducted a duly noticed public hearing at a regularly scheduled meeting for the Conditional Use, Discretionary Review and Variance Applications; all items were heard and continued to February 22, 2018. On February 22, 2018, the Commission and Zoning Administrator conducted a duly noticed public hearing at a regularly scheduled meeting for all items.

On February 12, 2018, the Department issued a new California Environmental Quality Act ("CEQA") Categorical Determination to reflect scope of work changes (e.g., demolition, accessory dwelling unit, additional excavation) which supersedes previous determination documents. The Department determined that the Project is exempt from CEQA as Class 1 and Class 3 categorical exemptions.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

**MOVED**, that the Commission hereby authorizes the Conditional Use requested in Application No. 2017-004562CUA, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

## **FINDINGS**

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Project Description.** The proposal is for demolition of an existing mixed-use structure (commercial office/single-family) and construction of a three-story over basement single-family residence at 799 Castro Street. The subject property contains three dwelling units – two units in a building at the rear of the property (3878-3880 21st Street) and one unit within an existing limited nonconforming commercial office in a building at the front (799 Castro Street). Under a separate building permit, 2017.04.04.3134, one new accessory dwelling unit is proposed in the rear building.
3. **Site Description and Present Use.** The project is located at the northeast corner of Castro and 21<sup>st</sup> Streets, Block 3603, Lot 024. The subject property is located within the RH-2 (Residential-House, Two Family) and the 40-X Height and Bulk District. The property is developed with a one-story commercial/residential building at the corner and a two-story building with two units along 21<sup>st</sup> Street. The 2,650 square foot laterally sloping corner lot has 26'6" of frontage along Castro Street and a depth of 100' along 21<sup>st</sup> Street.
4. **Surrounding Properties and Neighborhood.** The subject property is located at the southern edge of the Castro/Upper Market neighborhood, bordering Noe Valley and within Supervisor District 8. Parcels within the immediate vicinity consist of residential single-, two- and three-family dwellings of varied design and construction dates. Architectural styles, building heights, building depth and front setbacks vary within the neighborhood.
5. **Public Comment/Community Outreach**
  - The Project Sponsor conducted two Pre-Application Meetings with adjacent property owners on July 1, 2014 and February 21, 2017 as well as additional follow-up meetings to further



discuss design. The Project completed the Section 311, Conditional Use, Discretionary Review and Variance notifications as mentioned above.

- The Department received communication and petitions from neighbors both in support and opposition of the Project.
6. **Planning Code Compliance:** The Commission finds that the Project is generally consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Height.** Planning Code Section 260 requires that all structures be no taller than the height prescribed in the subject height and bulk district. The proposed Project is located in a 40-X Height and Bulk District, with a 40' height limit. Planning Code Section 261 further restricts height in RH-2 Districts to 30' at the front lot line, then at such setback, height shall increase at an angle of 45° toward the rear lot line until the prescribed 40' height limit is reached.

*The Project proposes a building that will be approximately 30'9" tall and will meet the 30' maximum at the front.*

- B. **Front Setback Requirement.** Planning Code Section 132 requires, in RH-2 Districts, a front setback that complies to legislated setbacks (if any) or a front back based on the average of adjacent properties (15 foot maximum).

*The subject property does not have a legislated setback. Based on the average of adjacent neighbors, a 4'5" front setback is required; the Project provides the minimum required.*

- C. **Rear Yard Requirement.** Planning Code Section 134 requires, in RH-2 Districts, a rear yard measuring 45 percent of the total depth; properties with two buildings on a lot are required to provide a minimum rear yard of 25% of the total lot depth or 15' between the two buildings.

*The Project proposes a 20' separation (increased from existing 8'6") between the subject building at the front and rear building. The Project requires a variance as the subject building encroaches within the required 25' rear yard.*

- D. **Side Yard Requirement.** Planning Code Section 133 does not require side yard setbacks in in RH-2 Districts.

*The Project proposes constructing to both side property lines since no side setbacks are required in the RH-2 District. The property does not currently provide side setbacks as the existing buildings are built to both side property lines.*

- E. **Residential Design Guidelines.** Per Planning Code Section 311, the construction of new residential buildings and alteration of existing residential buildings in R Districts shall be consistent with the design policies and guidelines of the General Plan and with the "Residential Design Guidelines."

*The Residential Design Team determined that the project complies with the Residential Design Guidelines.*

- F. **Front Setback Landscaping and Permeability Requirements.** Planning Code Section 132 requires that the required front setback be at least 20% unpaved and devoted to plant material and at least 50% permeable to increase storm water infiltration.

*Areas not constructed within the required front setback will provide the minimum required landscaping and permeability.*

- G. **Street Frontage Requirement.** Planning Code Section 144 requires that off-street parking entrances be limited to one-third of the ground story width along the front lot line and no less than one-third be devoted to windows, entrances to dwelling units, landscaping and other architectural features that provide visual relief and interest for the street frontage.

*The Project complies with the street frontage requirement as it exceeds the visual relief minimum.*

- H. **Street Frontage, Parking and Loading Access Restrictions.** Off-street parking shall meet the standards set forth in Planning Code Section 155 with respect to location, ingress/egress, arrangement, dimensions, etc.

*Proposed off-street parking for one vehicle will be located wholly within the property, comply with access, arrangement and street frontage dimensional standards.*

- I. **Usable Open Space.** Planning Code Section 135 requires, in RH-2 Districts, usable open space that is accessible by each dwelling (125 square feet per unit if private, ~166 square feet if shared).

*The Project provides the minimum private usable open space required for the subject building. However, the nonconforming open space condition for the existing two units would remain.*

- J. **Parking.** Planning Code Section 151 requires one parking space for each dwelling unit.

*The Project proposes one off-street parking space for the subject building. However, the nonconforming parking condition for the existing two units would remain.*

- K. **Residential Demolition – Section 317:** Pursuant to Planning Code Section 317, Conditional Use Authorization is required for applications proposing to remove a residential unit. This Code Section establishes a checklist of criteria that delineate the relevant General Plan Policies and Objectives.

*As the Project requires Conditional Use Authorization per the requirements of the Section 317, the additional criteria specified under Section 317 have been incorporated as findings a part of this Motion. See Item 8. "Additional Findings pursuant to Section 317" below.*

- L. **Residential Density, Dwelling Units.** Per Planning Code Section 209.1, up to two units per lot are principally permitted in RH-2 Districts and up to one unit per 1,500 Sq. Ft. of lot area is allowed with Conditional Use Authorization.

*The property is nonconforming with respect to density as it presently contains three units. The Project proposes tantamount to demolition of the existing single-family/commercial structure and construction of a replacement dwelling unit on the 2,650 square foot parcel. The project will maintain the quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21<sup>st</sup> Street) under a separate building permit.*

- M. **Child Care Requirements for Residential Projects.** Planning Code Section 414A requires that any residential development project that results in additional space in an existing residential unit of more than 800 gross square feet shall comply with the imposition of the Residential Child Care Impact Fee requirement.

*The Project proposes adding more than 800 gross square feet to the subject building. Therefore, the Project is subject to the Residential Child Care Impact Fee and must comply with the requirements outlined in Planning Code Section 414A.*

7. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The proposal will remove a noncomplying commercial office use from and replace it with residential use within the residential context. It will provide a family-sized unit that is designed to be in keeping with the existing development pattern and the neighborhood character.*



B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The proposal is designed to be compatible with the surrounding neighborhood and adjacent buildings. It proposes a single-family structure that is similar to the massing and arrangement of the neighborhood context.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

*Planning Code requires one off-street parking space per dwelling unit. One vehicle and one bicycle space are proposed where currently no spaces provided on site for the existing buildings.*

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*The proposal is residential and will not yield noxious or offensive emissions.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The proposed project is residential, will be landscaped accordingly and will provide one off-street parking space.*

C. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The Project generally complies with relevant requirements and standards of the Planning Code and is consistent with objectives and policies of the General Plan as detailed below.*

D. That the use as proposed would provide development that is in conformity with the purpose of the applicable RH-2 District.

*The property is nonconforming with respect to density as it presently contains three units. The project will maintain the existing quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.*

8. **Additional Findings pursuant to Section 317** establishes criteria for the Planning Commission to consider when reviewing applications to demolish or convert Residential Buildings. On balance, the Project does comply with said criteria in that:

- i. Whether the property is free of a history of serious, continuing Code violations;

***Project meets criterion.***

*A review of the databases for the Department of Building Inspection and the Planning Department did not show any enforcement cases or notices of violation.*

- ii. Whether the housing has been maintained in a decent, safe, and sanitary condition;

***Project meets criterion.***

*The structure appears to be in decent condition.*

- iii. Whether the property is an "historic resource" under CEQA;

***Criterion not applicable.***

*The Planning Department reviewed the Historic Resource Evaluation submitted and concluded that the subject property is not eligible for listing in the California Register of Historical Resources (CRHR) individually or as a contributor to a historic district. Therefore, the existing structure is not a historic resource under CEQA.*

- iv. Whether the removal of the resource will have a substantial adverse impact under CEQA;

***Criterion not applicable.***

*Not applicable. The Planning Department determined that the existing structure is not a historic resource. Therefore, the removal of the structure would not result in a significant adverse impact on historic resources under CEQA.*

- v. Whether the Project converts rental housing to other forms of tenure or occupancy;

***Criterion not applicable.***

*The existing unit is not rental housing.*

- vi. Whether the Project removes rental units subject to the Rent Stabilization and Arbitration Ordinance or affordable housing;

***Criterion not applicable.***

*The subject property is a commercial office/single-family residence and not subject to rent control.*

- vii. Whether the Project conserves existing housing to preserve cultural and economic neighborhood diversity;

***Project meets criterion.***

*Although the Project proposes demolition of the commercial office/dwelling unit, it will be replaced with a family-sized unit with 3 bedrooms. The Project will maintain the quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21<sup>st</sup> Street) under a separate building permit.*

- viii. Whether the Project conserves neighborhood character to preserve neighborhood cultural and economic diversity;

***Project meets criterion.***

*The replacement building will conserve neighborhood character with appropriate scale, design, and materials, and improve cultural and economic diversity by appropriately increasing the number of bedrooms for a family-sized unit. There will be a net gain of one unit at the project site through the introduction of an Accessory Dwelling Unit under a separate building permit.*

- ix. Whether the Project protects the relative affordability of existing housing;

***Project meets criterion.***

*The Project will maintain the existing quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21<sup>st</sup> Street) under a separate building permit. By creating new dwelling-unit where one dwelling used to exist, the relative affordability of existing housing is being preserved.*

- x. Whether the Project increases the number of permanently affordable units as governed by Section 415;

***Criterion not applicable.***

*The Project is not subject to the provisions of Planning Code Section 415, as the project proposes less than ten units.*

- xi. Whether the Project locates in-fill housing on appropriate sites in established neighborhoods;

***Project meets criterion.***

*The Project has been designed to be in keeping with the scale and development pattern of the established neighborhood character.*

- xii. Whether the Project increases the number of family-sized units on -site;

***Project meets criterion.***

*The Project proposes a three-bedroom, family-sized residence and an accessory dwelling unit under a separate building permit in the adjacent building on the lot.*

- xiii. Whether the Project creates new supportive housing;

***Criterion not applicable.***

*The Project does not create supportive housing.*

- xiv. Whether the Project is of superb architectural and urban design, meeting all relevant design guidelines, to enhance existing neighborhood character;

***Project meets criterion.***

*The overall scale, design, and materials of the proposed building are consistent with the block-face and compliment the neighborhood character.*

- xv. Whether the Project increases the number of on-site Dwelling Units;

***Project meets criterion.***

*The Project will maintain the existing quantity of dwelling units on site and will introduce an accessory dwelling unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.*

- xvi. Whether the Project increases the number of on-site bedrooms;

***Project meets criterion.***

*The Project proposes a three-bedroom, family-sized residence and an Accessory Dwelling Unit (studio) under a separate building permit in the adjacent building on the lot.*

- xvii. Whether or not the replacement project would maximize density on the subject lot; and

***Project meets criterion.***

*The property is nonconforming with respect to density as it presently contains three units. The project proposes tantamount to demolition of the existing single-family/commercial structure and construction of a replacement dwelling unit on the 2,650 square foot parcel. The Project will maintain the existing quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.*

- xviii. If replacing a building not subject to the Residential Rent Stabilization and Arbitration Ordinance, whether the new project replaces all of the existing units with new Dwelling Units of a similar size and with the same number of bedrooms.

***Project meets criterion.***

*The Project proposes replacing the existing commercial/residential structure with a new, family-sized dwelling unit of a larger size.*

9. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:



## HOUSING ELEMENT

### OBJECTIVE 4:

**FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.**

#### Policy 4.1:

Develop new housing, and encourage the remodeling of existing housing, for families with children.

*The Project proposes a three-bedroom, family-sized residence and an Accessory Dwelling Unit under a separate building permit in the adjacent building on the lot.*

### OBJECTIVE 11:

**SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.**

#### Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

*The overall scale, design, and materials of the proposed building are consistent with the block-face and compliment the neighborhood character.*

#### Policy 11.2

Ensure implementation of accepted design standards in project approvals.

#### Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

*The property is nonconforming with respect to density as it presently contains three units. The project will maintain the existing quantity of dwelling units on site and will introduce an Accessory Dwelling Unit in the existing two-unit building on the property (3878-3880 21st Street) under a separate building permit.*

#### Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

**Policy 11.5**

Ensure densities in established residential areas promote compatibility with prevailing neighborhood character.

**URBAN DESIGN**

**OBJECTIVE 1:**

**EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.**

**Policy 1.2:**

Recognize, protect and reinforce the existing street pattern, especially as it is related to topography.

*The Project proposes construction that respects existing building heights and topography in the neighborhood.*

**Policy 1.3:**

Recognize that buildings, when seen together, produce a total effect that characterizes the city and its districts.

*The proposed replacement building reflects the existing mixed architectural character and development pattern of the neighborhood. The overall scale, design, and materials of the proposed building are consistent with the block-face and compliment the neighborhood character.*

**OBJECTIVE 2:**

**CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.**

**Policy 2.6:**

Respect the character of older development nearby in the design of new buildings.

*The replacement building has been designed to be compatible with the neighborhood's mixed massing, width and height. It proposes exterior materials that are compatible with the adjacent buildings and immediate neighborhood character.*

10. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*While the existing commercial/residential structure is proposed to be demolished, the replacement building would provide a family-sized dwelling unit in a neighborhood made up of one-, two-and three+ units of mixed architectural character.*

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*The replacement building would provide a family-sized dwelling unit in a neighborhood made up of one-, two-and three+ units of mixed architectural character.*

- C. That the City's supply of affordable housing be preserved and enhanced,

*While the project does not propose affordable housing, it will provide a family-size dwelling unit and an Accessory Dwelling Unit on site, adding to the City supply of housing.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The Project would not have a significant adverse effect on automobile traffic congestion or create parking problems in the neighborhood. The project would enhance neighborhood parking by providing one off-street parking space and one bicycle parking space, where none currently exist on the lot.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The Project will remove a nonconforming commercial office/residential building and replace it with residential use which is in keeping with the residential neighborhood context.*

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The Project will conform to the requirements of the San Francisco Building Code.*

- G. That landmarks and historic buildings be preserved.

*Landmark or historic buildings do not occupy the project site.*

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

*The Project will have no negative impact on existing parks and open spaces. The height of the proposed structure is compatible with the established neighborhood development.*

11. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
12. The Commission hereby finds that approval of the Conditional Use authorization would promote the health, safety and welfare of the City.



**DECISION**

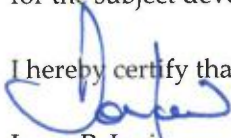
That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Conditional Use Application No. 2016-004562CUA** subject to the following conditions attached hereto as "EXHIBIT A" which is incorporated herein by reference as though fully set forth.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 20118. The effective date of this Motion shall be the date of this Motion if not appealed (After the 30-day period has expired) OR the date of the decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94012.

**Protest of Fee or Exaction:** You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on February 22, 2018.

  
Jonas P. Ionin  
Commission Secretary

AYES: Richards, Moore, Koppel, Melgar

NAYS: Hillis

ABSENT: Fong

RECUSED: None

ADOPTED: February 22, 2018

## EXHIBIT A

### AUTHORIZATION

This authorization is for a conditional use to allow tantamount to demolition of an existing single-family residence and construction of two replacement dwelling units located at 437 Hoffman Avenue, Block 6503, Lot 024 pursuant to Planning Code Sections 303 and 317 within the RH-2 District and a 40-X Height and Bulk District; in general conformance with plans, dated February 12, 2018, and stamped "EXHIBIT B" included in the docket for Case No. 2017-004562CUA and subject to conditions of approval reviewed and approved by the Commission on February 22, 2018 under Motion No 20118. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

### RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on February 22, 2018 under Motion No. 20118.

### PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 20118 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

### SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

### CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

## Conditions of Approval, Compliance, Monitoring, and Reporting

### PERFORMANCE

1. **Validity.** The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

2. **Expiration and Renewal.** Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

3. **Diligent pursuit.** Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

4. **Extension.** All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

5. **Conformity with Current Law.** No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*



## DESIGN

6. **Final Design.** The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

7. **Garbage, composting and recycling storage.** Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the building permit plans. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

8. **Landscaping.** Pursuant to Planning Code Section 132, the Project Sponsor shall submit a site plan to the Planning Department prior to Planning approval of the building permit application indicating that 50% of the front setback areas shall be surfaced in permeable materials and further, that 20% of the front setback areas shall be landscaped with approved plant species. The size and specie of plant materials and the nature of the permeable surface shall be as approved by the Department of Public Works.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## PARKING AND TRAFFIC

9. **Parking Requirement.** Pursuant to Planning Code Section 151, the Project shall provide one independently accessible off-street parking space.

*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## PROVISIONS

10. **Child Care Fee - Residential.** The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

*For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, [www.sf-planning.org](http://www.sf-planning.org)*

## MONITORING

11. **Enforcement.** Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code



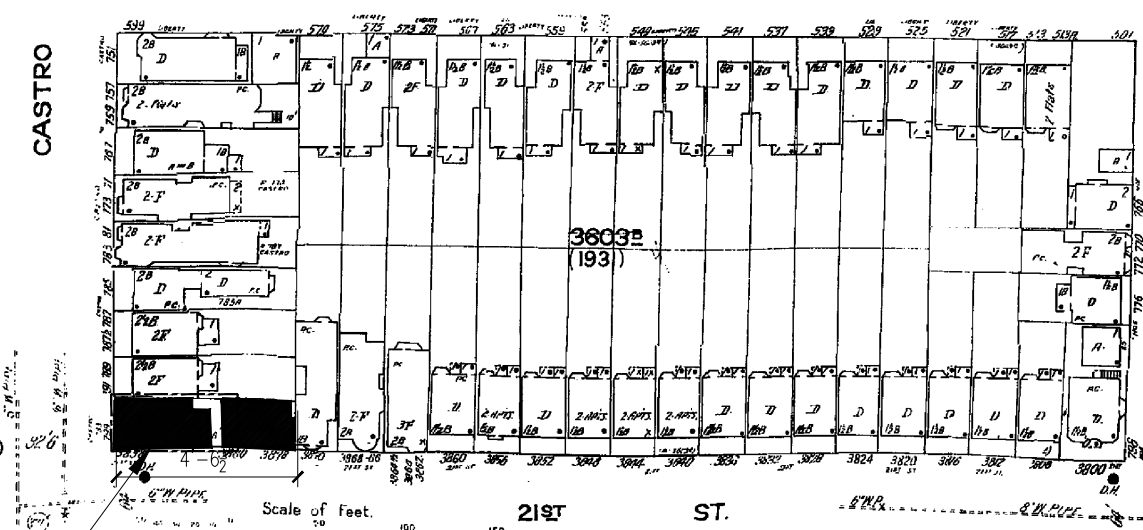
Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.  
*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

12. **Revocation due to Violation of Conditions.** Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.  
*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## OPERATION

13. **Garbage, Recycling, and Composting Receptacles.** Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.  
*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-.5810, <http://sfdpw.org>*
14. **Sidewalk Maintenance.** The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.  
*For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>*
15. **Community Liaison.** Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.  
*For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, [www.sf-planning.org](http://www.sf-planning.org)*

## **EXHIBIT B**



1 BLOCK PLAN- EXISTING

SHEET INDEX:

- A-0 VICINITY MAP, SITE/ ROOF PLAN & PROJECT DATA
- A-1.0 EXISTING SITE PLAN.
- A-1.1 PROPOSED BASEMENT + FIRST FLOOR PLANS
- A-1.2 PROPOSED SECOND + THIRD FLOOR PLANS
- A-1.3 ROOF PLAN
- A-1.4 PROPOSED SECTIONS
- A-2.0 PROPOSED WEST AND EAST ELEVATIONS
- A-2.1 PROPOSED SOUTH ELEVATION
- A-2.2 PROPOSED NORTH ELEVATION
- A-2.4 EXISTING SOUTH ELEVATION
- A-2.5 EXISTING NORTH ELEVATION

AREA SUMMARIES

- EXISTING BUILDING 2,650 SQ. FT. PER TRUE NORTH SURVEY DATED NOV. 13,2007
- PROPOSED BUILDING
  - FLOOR AREA: 3,009 SQ. FT.
  - GARAGE: 283 SQ. FT.
  - BALCONY, PATIO AREAS: 212 SQ. FT.

SCOPE OF WORK:

- ALTERATION OF EXISTING COMMERCIAL BUILDING
- CONVERSION OF OCCUPANCY TO R-3.
- (E) RESIDENCE RELOCATION UNDER SEPERATE PERMIT SUBMIT ALL.

PROJECT DATA:

REMODELED RESIDENCE AT 799 CASTRO STREET  
 CODE : 2013 SFBC  
 CONSTRUCTION TYPE : V B  
 SPRINKLERING: PER 903.3.1  
 OCCUPANCY GROUP : R-3  
 FLOORS: 4 LEVELS - THREE STORIES OVER A BASEMENT  
 FULL LOT AREA: 2,862 SQ. FT.  
 BLOCK/ LOT : 3603/024  
 ZONING : RH-2, RESIDENTIAL - TWO FAMILY  
 HEIGHT/ BULK DISTRICT : 40-X  
 FRONT SETBACK : AVERAGE COMPLIES  
 REAR SETBACK : PROPOSED VARIANCE FROM 25' SEPARATION BETWEEN BUILDINGS.



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- INTERIORS
- PLANNING

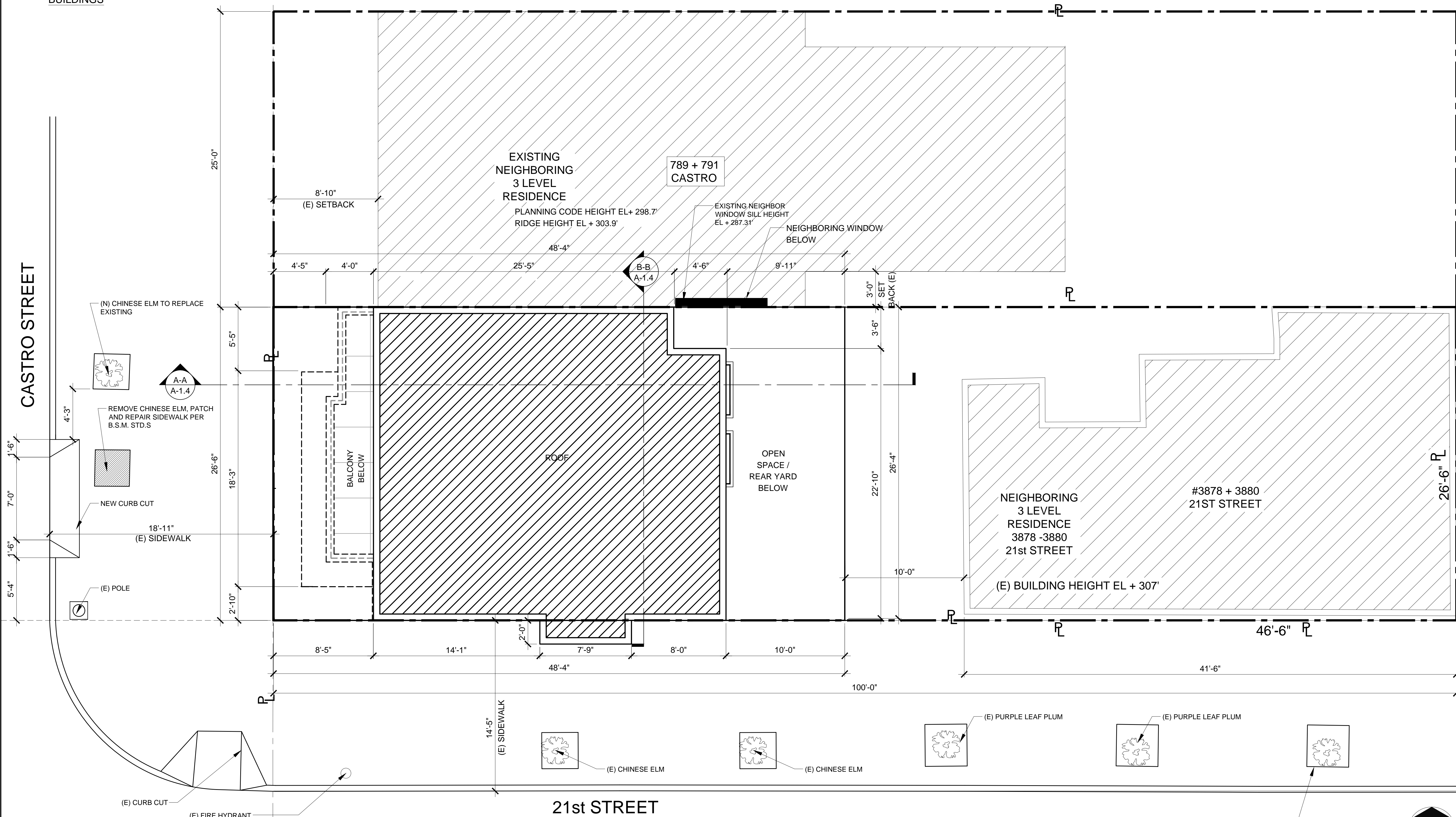
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 tel. 415-362-5857  
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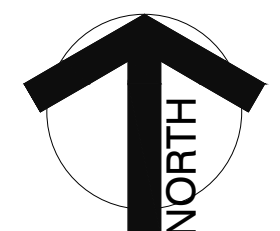
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2 PROPOSED SITE PLAN

Scale: 3/16" = 1'-0"



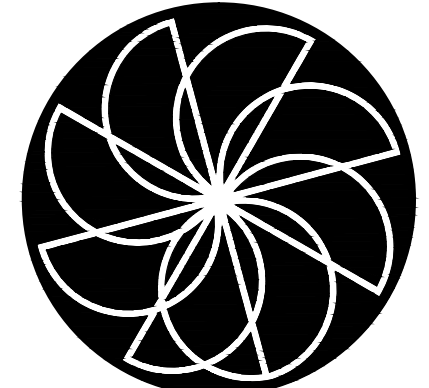
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NO.	REVISIONS:	DATE:
1	DESIGN	5.10.10
2	ENVIRONMENTAL EVALUATION	2.24.11
3	EE REVISION	5.3.11
4	RDG RESUBMITTAL	01.16.14
5	PLANNING COMMENTS	05.27.14
6	ALTERATION PERMIT	08.06.14
7	311 / VARIANCE	05.13.15
8	PC FEB	02.09.18

ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

DRAWING TITLE:  
**PROPOSED SITE PLAN**

DRAWING NUMBER:  
**A-0 ALT**



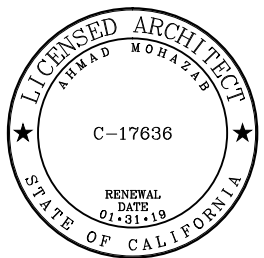
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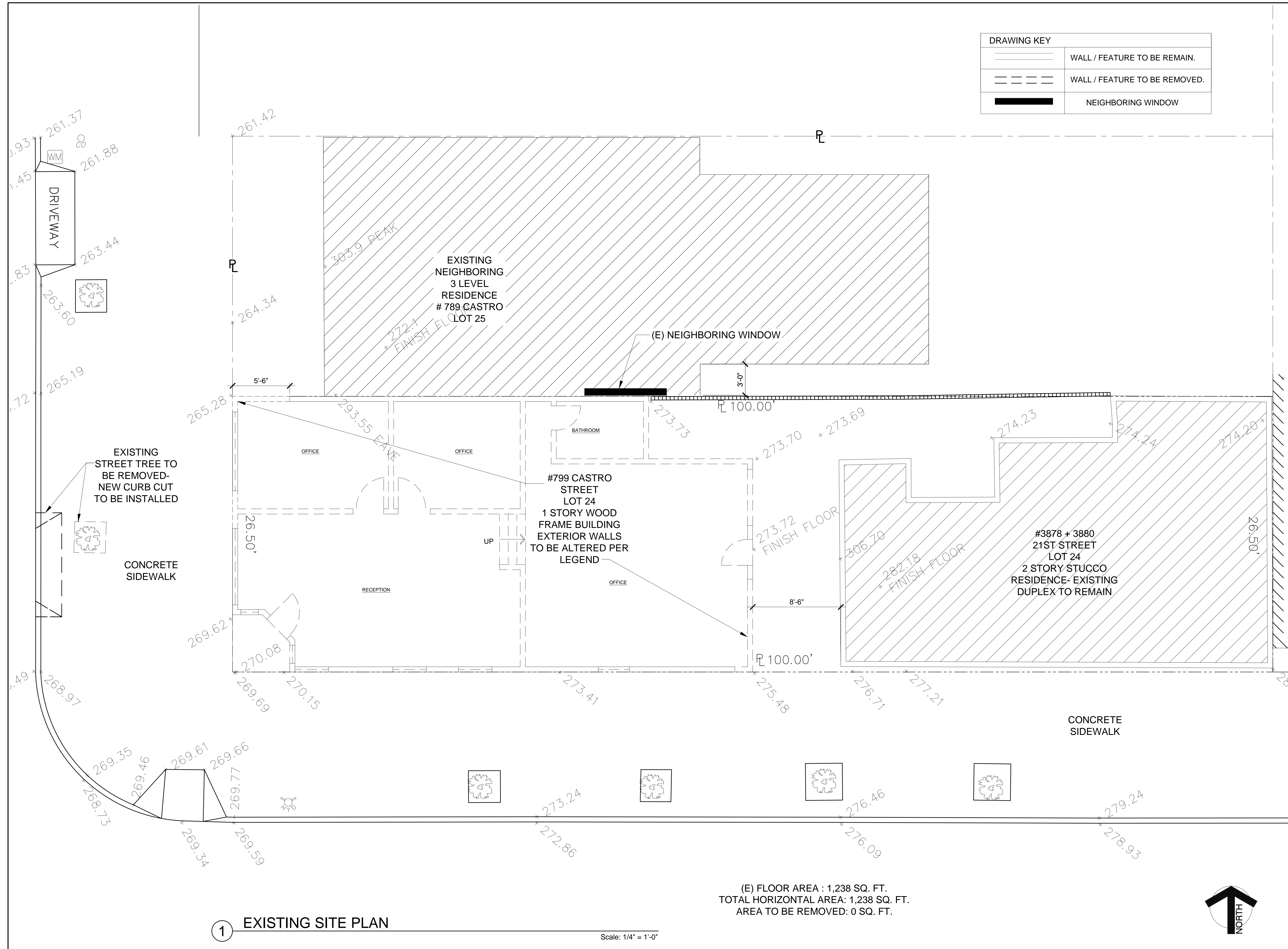
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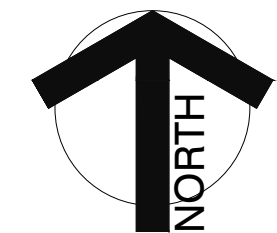
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	WALL / FEATURE TO BE REMAIN.
	WALL / FEATURE TO BE REMOVED.
	NEIGHBORING WINDOW



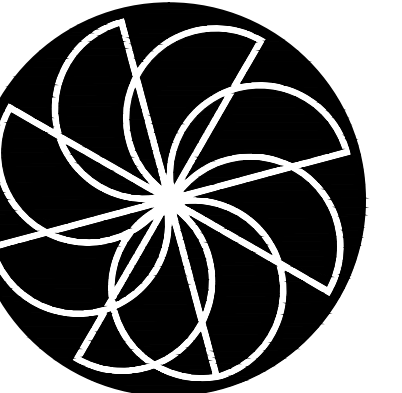
(E) FLOOR AREA : 1,238 SQ. FT.  
 TOTAL HORIZONTAL AREA: 1,238 SQ. FT.  
 AREA TO BE REMOVED: 0 SQ. FT.

① EXISTING SITE PLAN

Scale: 1/4" = 1'-0"







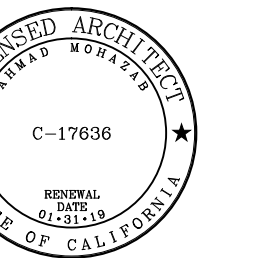
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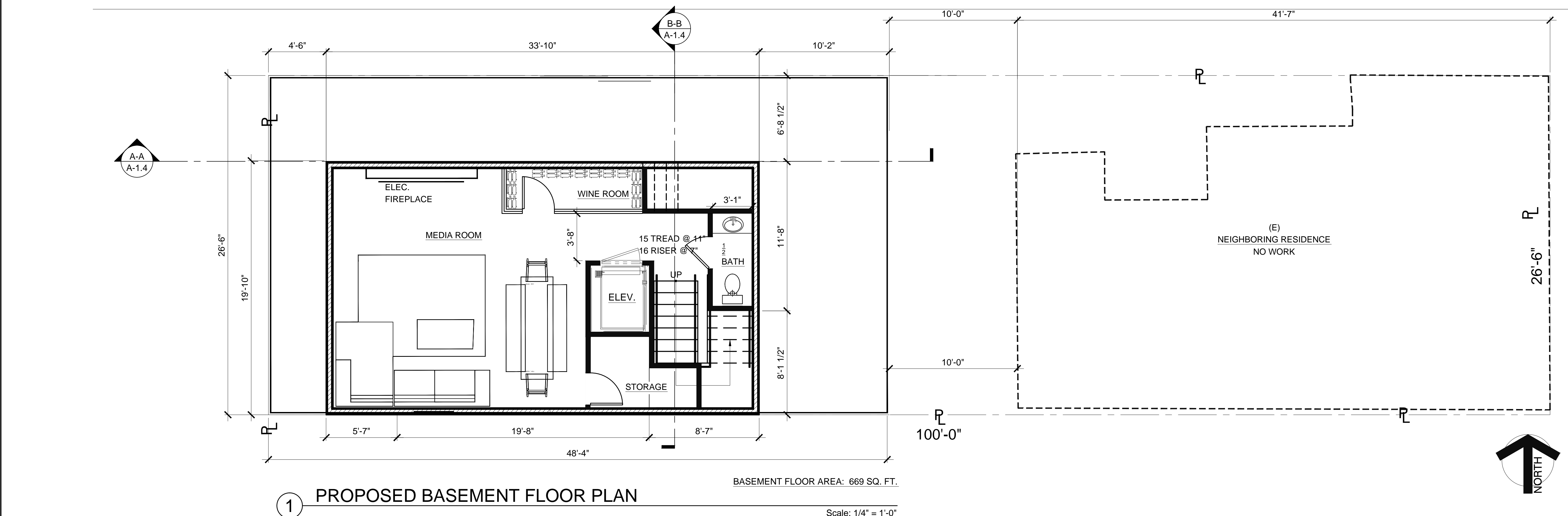
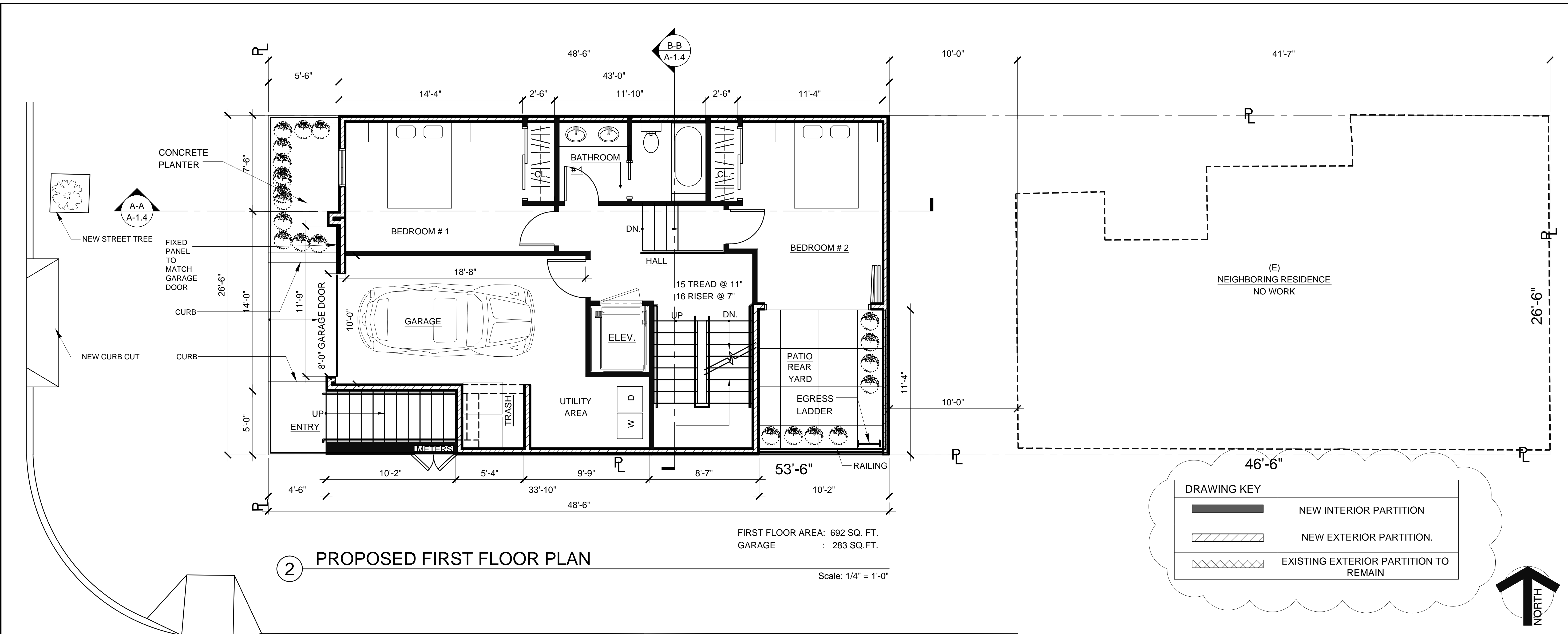
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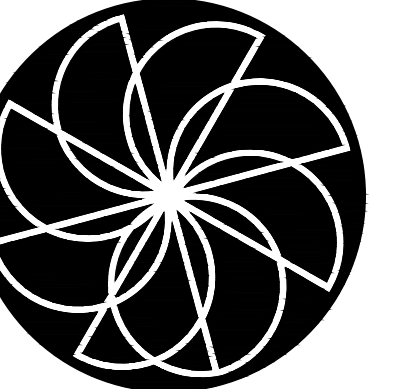
ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

DRAWING TITLE:  
**PROPOSED  
 BASEMENT & FIRST  
 FLOOR PLANS**

DRAWING NUMBER:

**A-1.1 ALT**





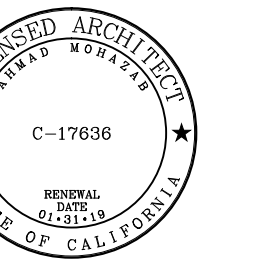
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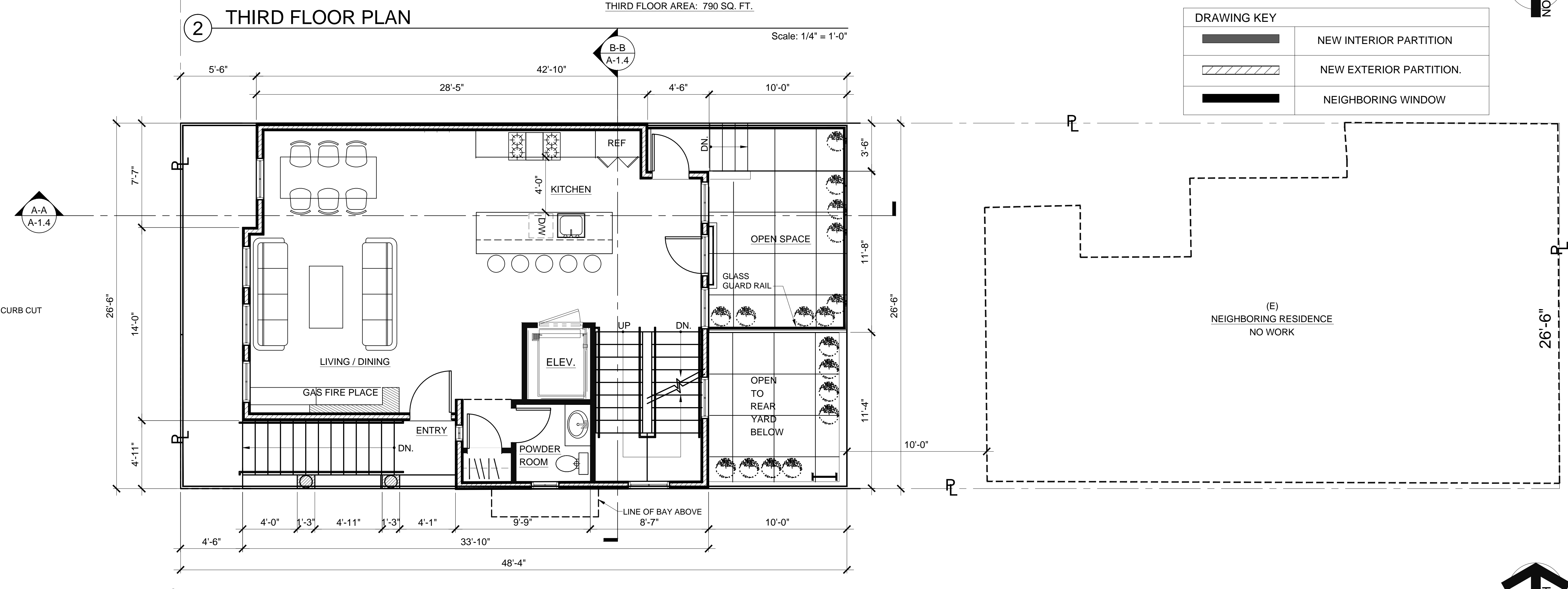
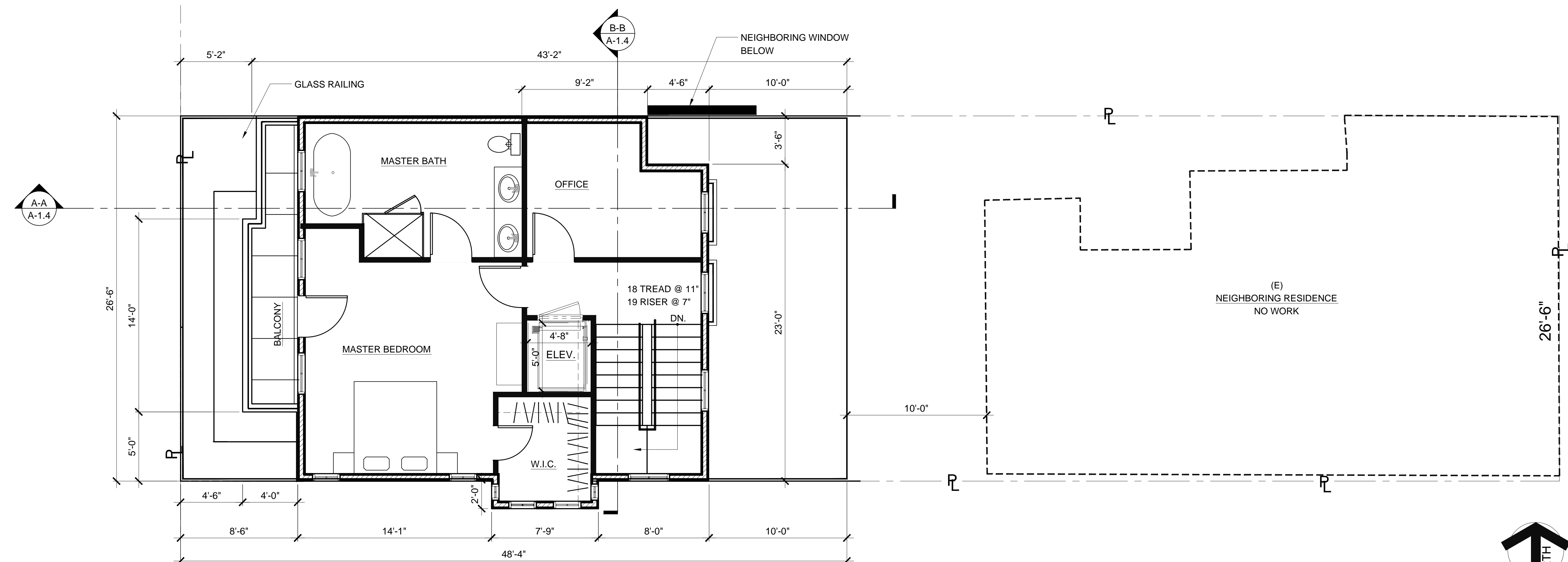
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ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

DRAWING TITLE:  
**PROPOSED  
 SECOND & THIRD  
 FLOOR PLANS**

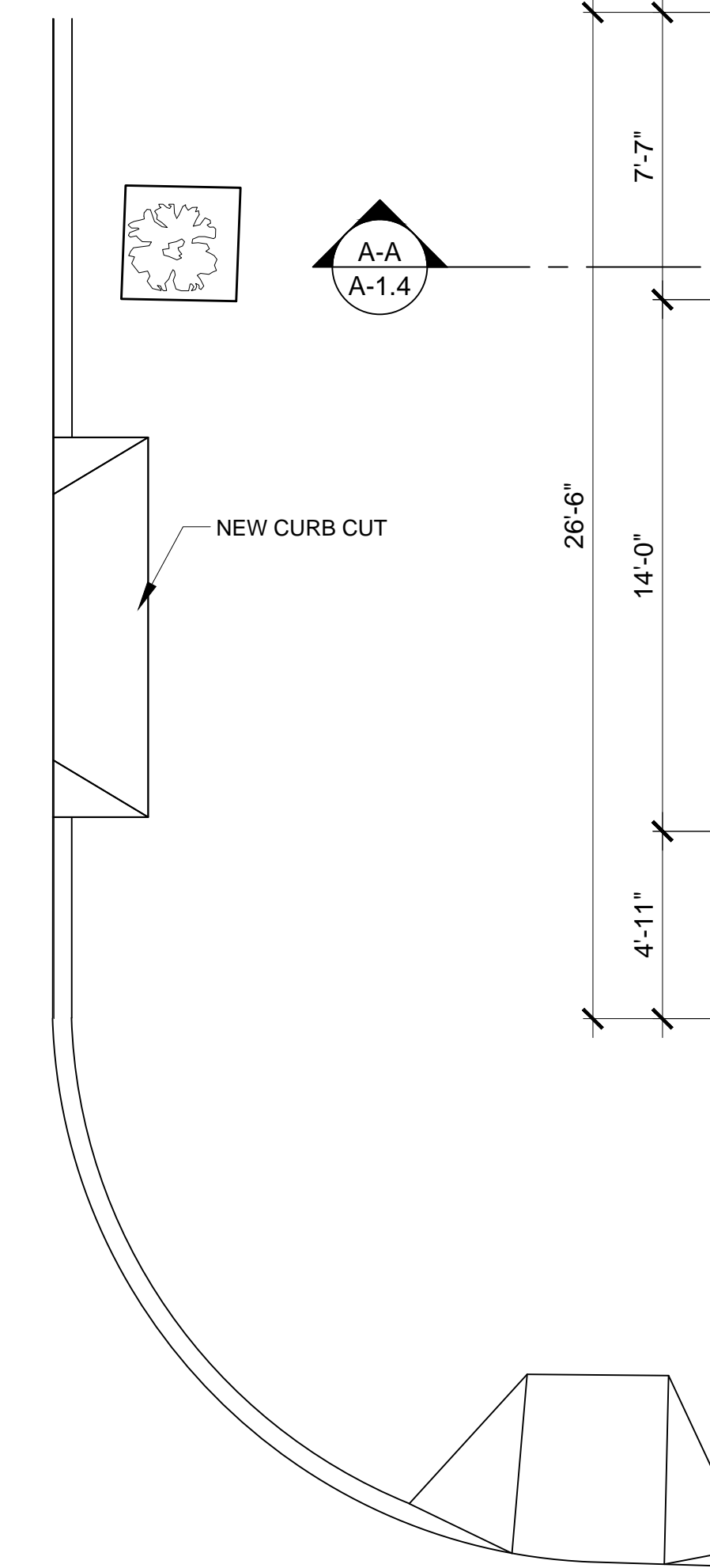
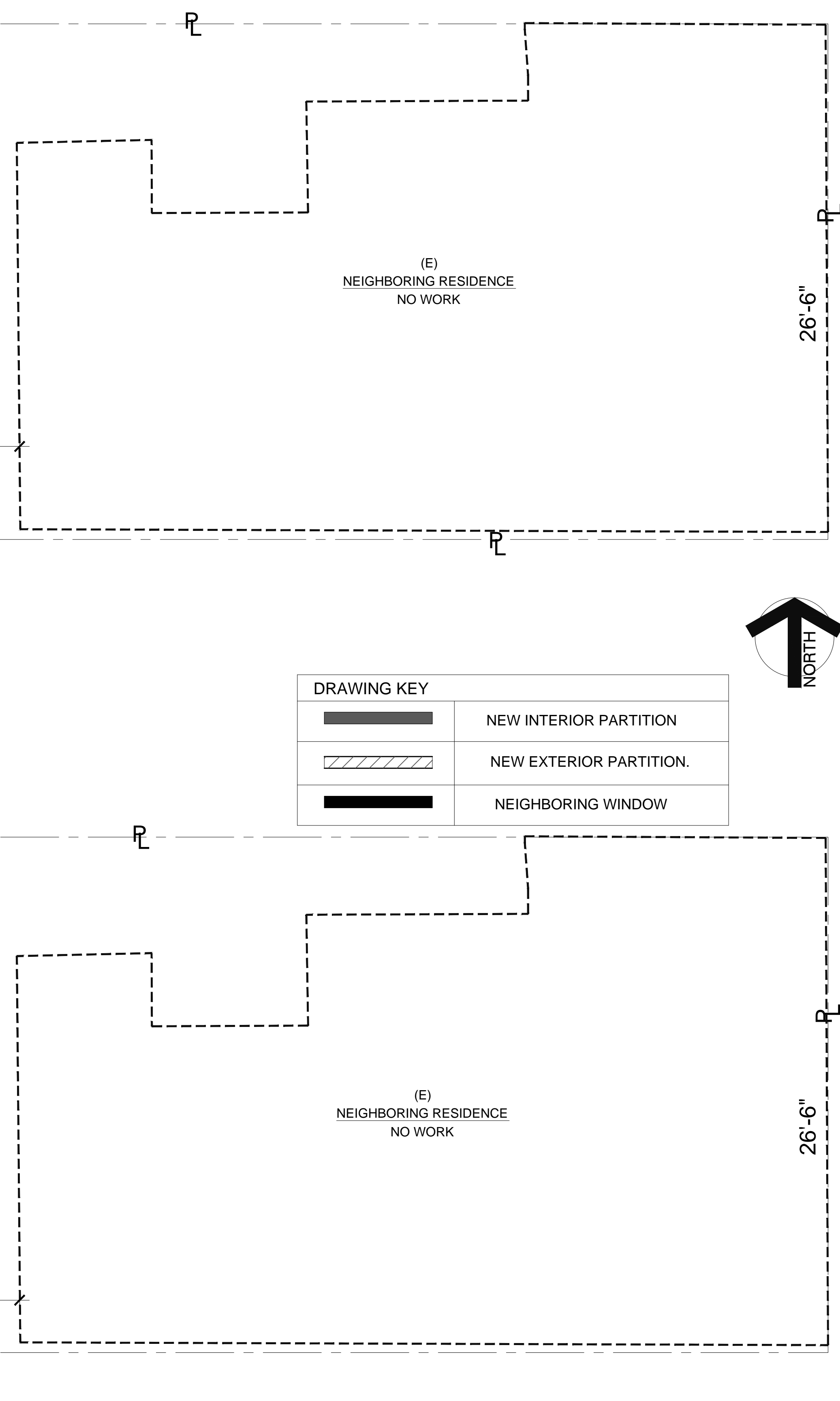
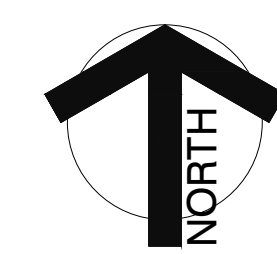
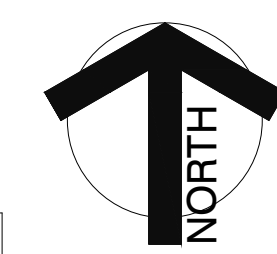
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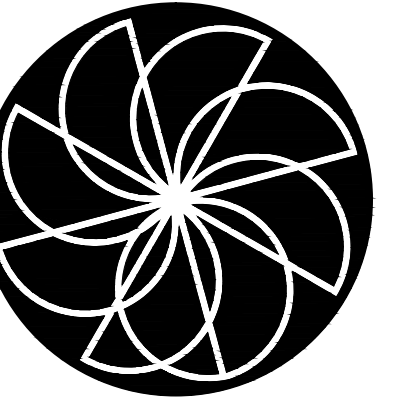
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**DRAWING KEY**

	NEW INTERIOR PARTITION
	NEW EXTERIOR PARTITION.
	NEIGHBORING WINDOW





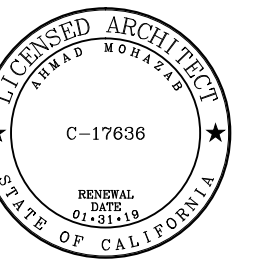
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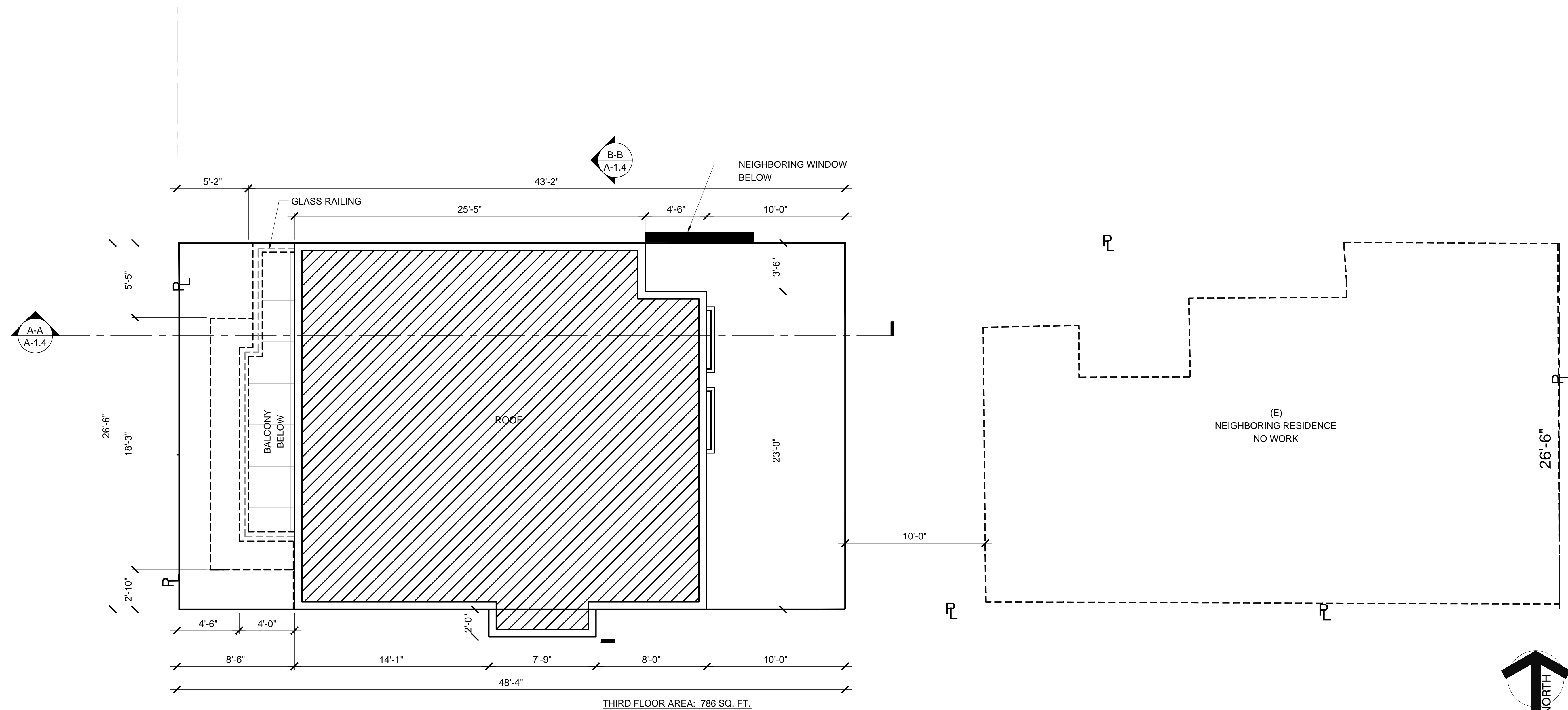
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1 ROOF PLAN

Scale: 1/4" = 1'-0"

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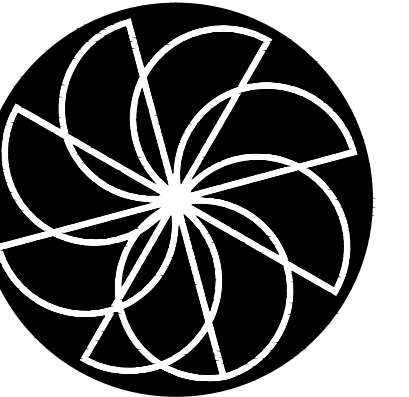
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ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

DRAWING TITLE:  
**ROOF PLAN**

DRAWING NUMBER:

**A-1.3 ALT**



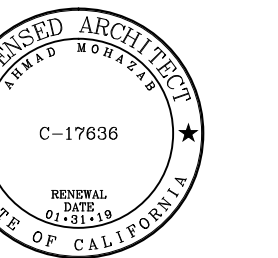
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 SAN FRANCISCO, CA 94114

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4	RDG RESUBMITTAL	01.16.14
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7	311 / VARIANCE	05.13.15
8	PC FEB	02.09.18

ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

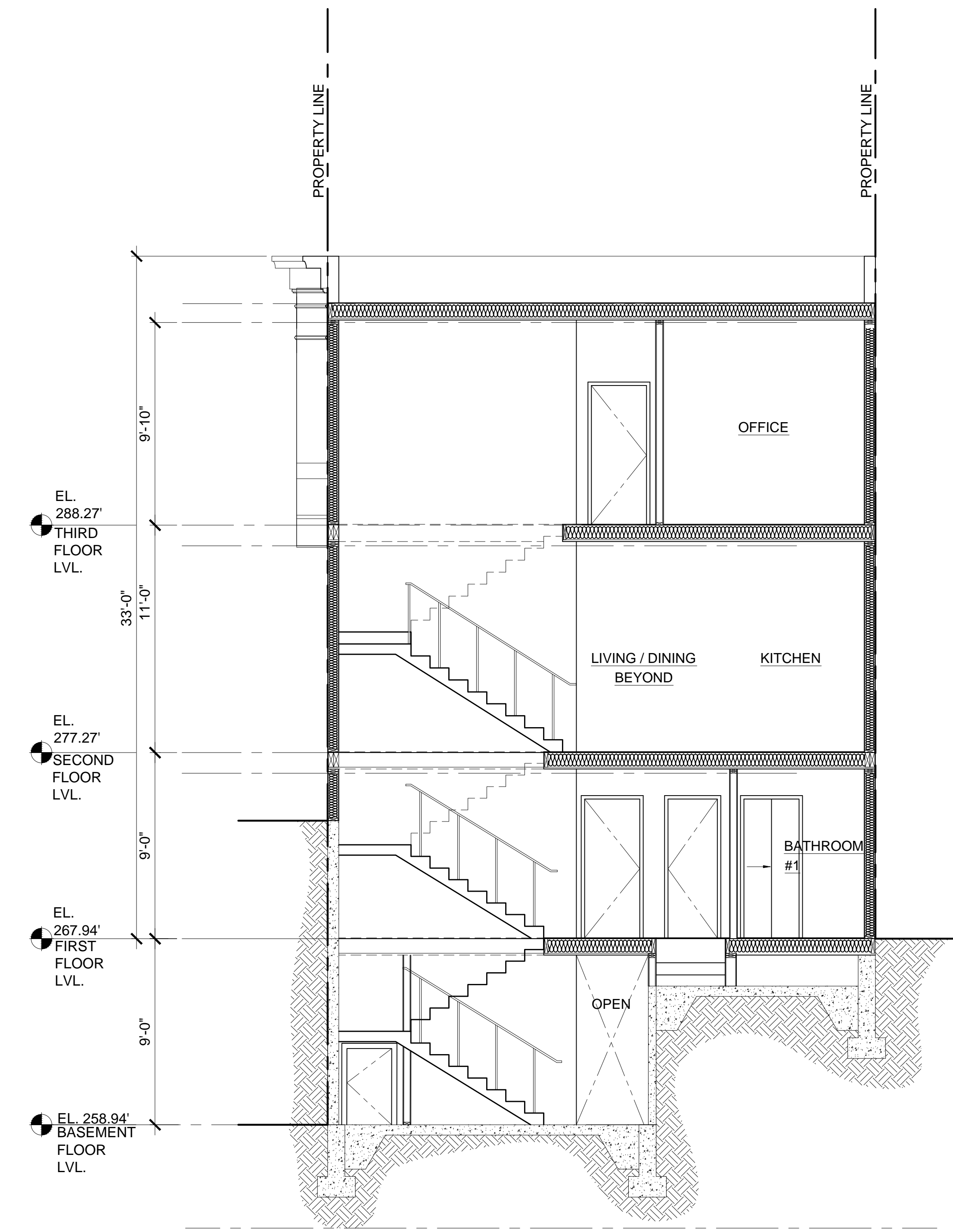
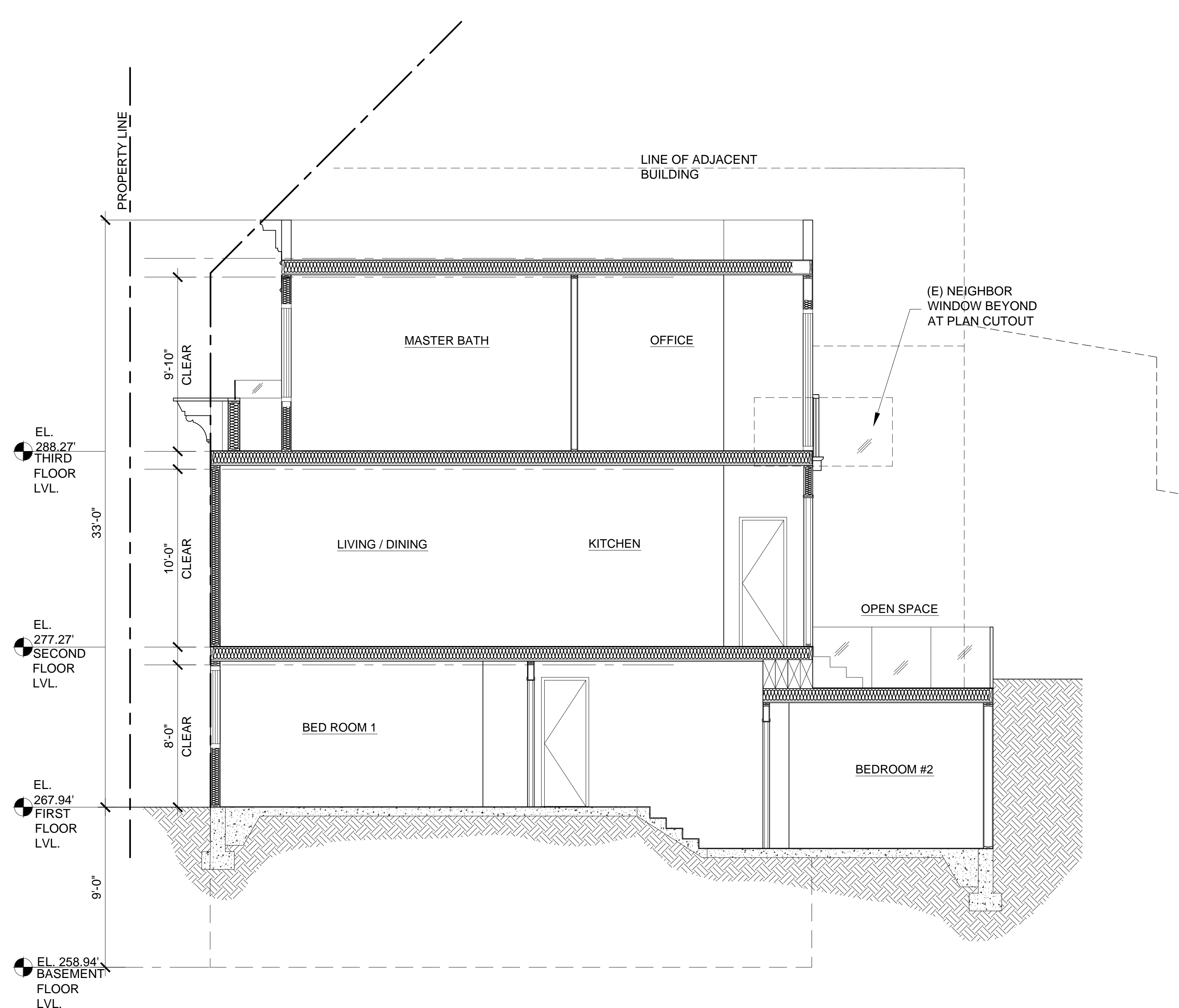
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**SECTIONS**

DRAWING NUMBER:

**A-1.4 ALT**

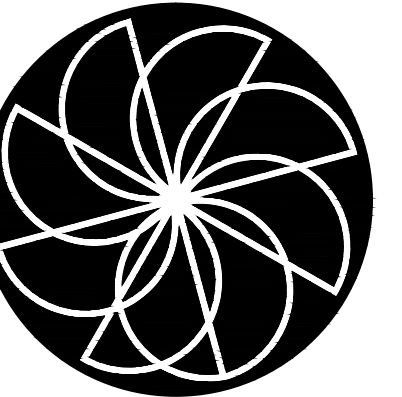
GUARDRAIL AND HANDRAIL EXB MPT  
 PER SFPC SECTION 260 (b) (A) (B)



2 SECTION A-A

1 SECTION B-B





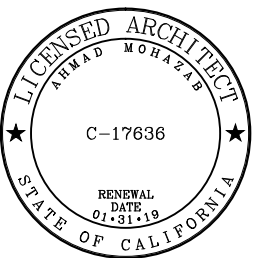
**TECTA**

associates

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- INTERIORS
- PLANNING

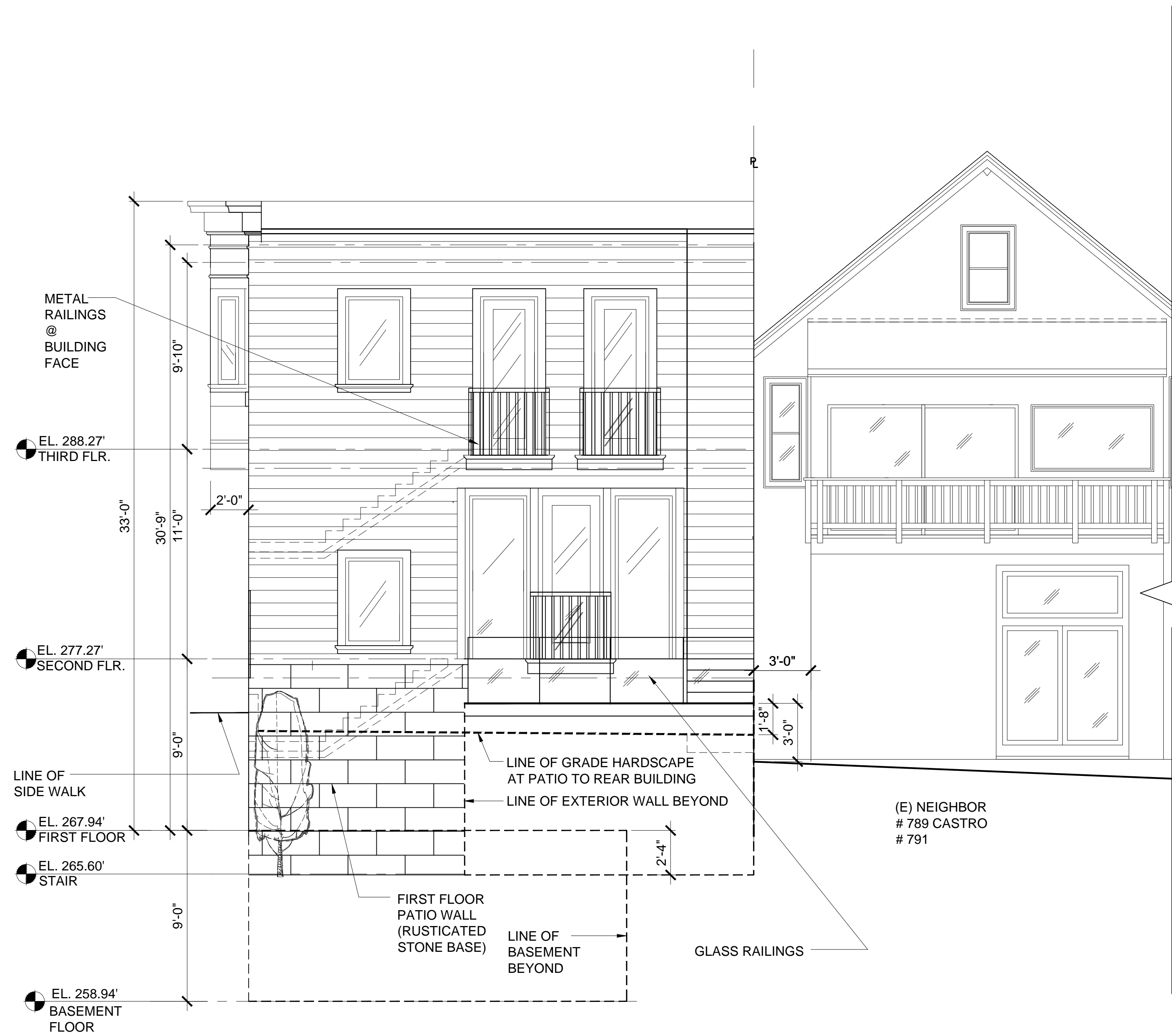
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 tel. 415-362-5857  
 fax. 415-362-5044

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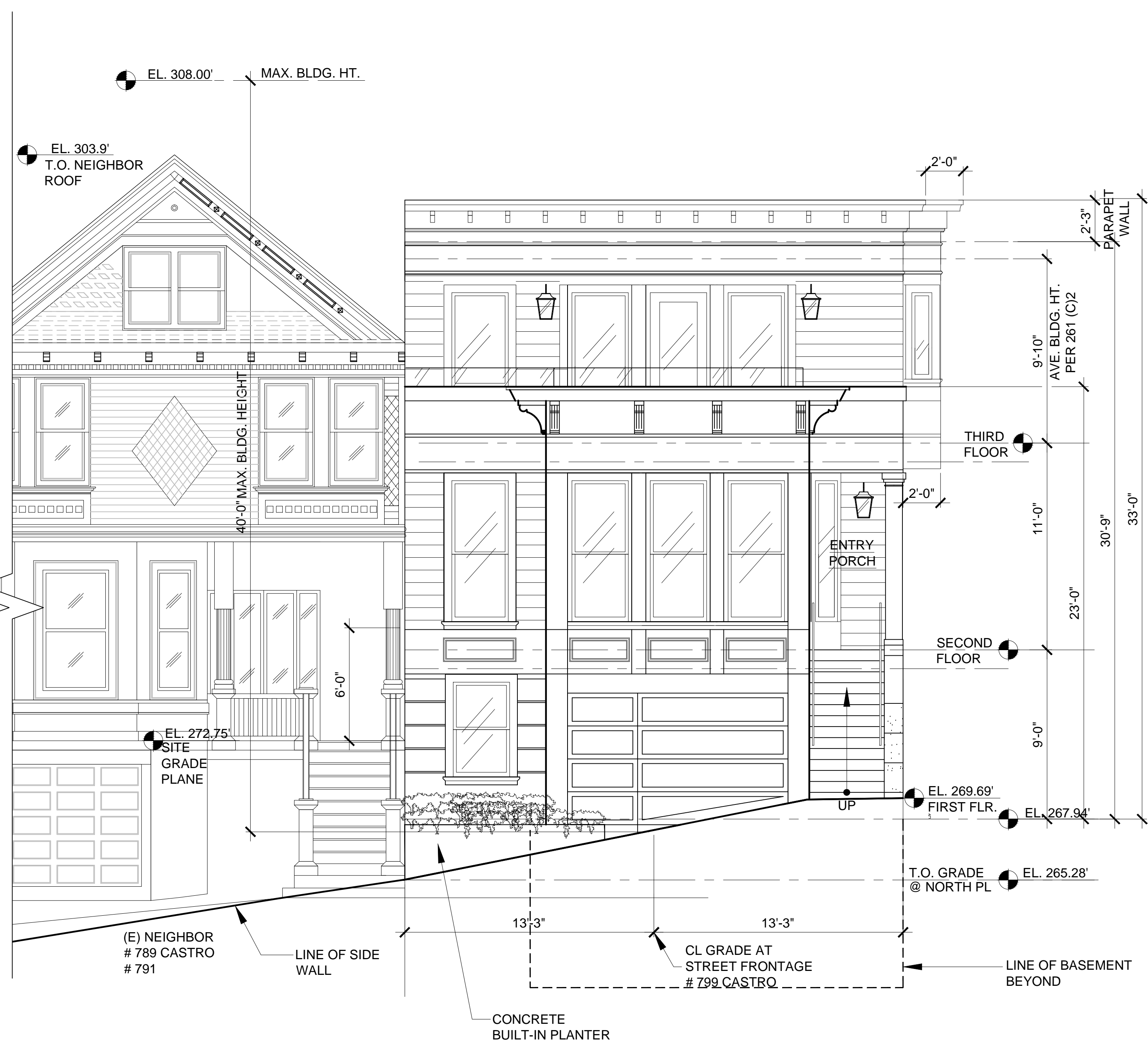
ARCHITECTURAL PROJECT NO.:

**NEW RESIDENCE**  
 799 CASTRO  
 SAN FRANCISCO, CA 94114



2 EAST REAR ELEVATION

Scale: 1/4" = 1'-0"



1 WEST FRONT ELEVATION - CASTRO STREET

Scale: 1/4" = 1'-0"

**EXISTING GRADE PLANE ANALYSIS**

- WEST FRONTAGE AVERAGE GRADE = 267.5'
- EAST PROPERTY LINE AVERAGE GRADE = 278'
- SOUTH FRONTAGE AVERAGE GRADE = 275.7'
- NORTH PROPERTY LINE AVERAGE GRADE = 269.7'
- AVERAGE GRADE PLANE FOR PROPERTY IS = 272.75'
- LOWEST PROPOSED LEVEL IS A BASEMENT:  
 PROPOSED FLOOR ABOVE IS LESS THAN SIX FEET ABOVE GRADE PLANE.

**GRADING ANALYSIS**

- BASEMENT (305 SQ.FT. X 9 FT) = 101.5 C.Y.
  - FIRST FLOOR (30SQ.FT. X 4.5 & 114.5 SQ.FT. X 4.5) = 21.75 C.Y.
  - SECOND FLOOR = 0 C.Y.
  - THIRD FLOOR = 0 C.Y.
- TOTAL C.Y. TO BE REMOVED: 123.25

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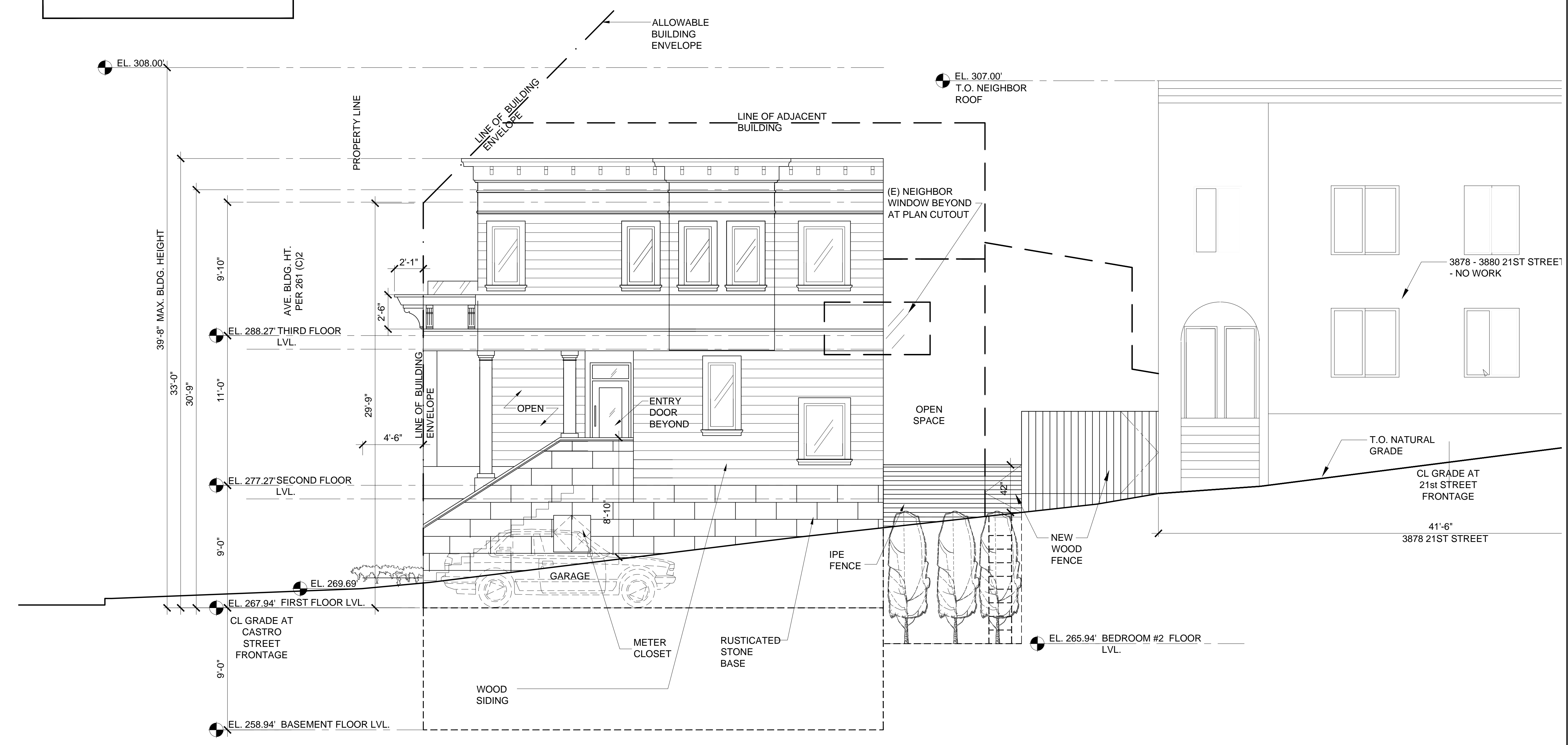
ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

DRAWING TITLE:  
**PROPOSED WEST AND EAST ELEVATIONS**

DRAWING NUMBER:

**A-2.0 ALT**

SECTION 144 COMPLIANCE:  
 • EXTENT OF ARCHITECTURAL FEATURES AT SOUTH ELEVATION:  $9'9" + 9'6" + 3'7" + 8'0" = 30'-10"$   
 • EXTENT OF BUILDING FRONTAGE AT SOUTH ELEVATION =  $0.635 > 1/3$



1 SOUTH ELEVATION - 21ST STREET - PROPOSED

Scale: 1/4" = 1'-0"

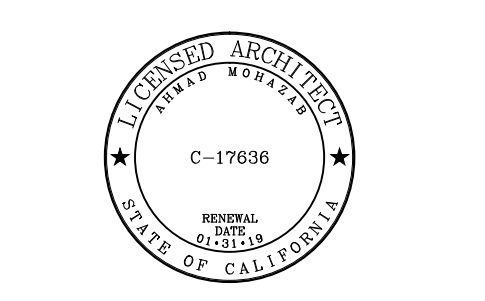


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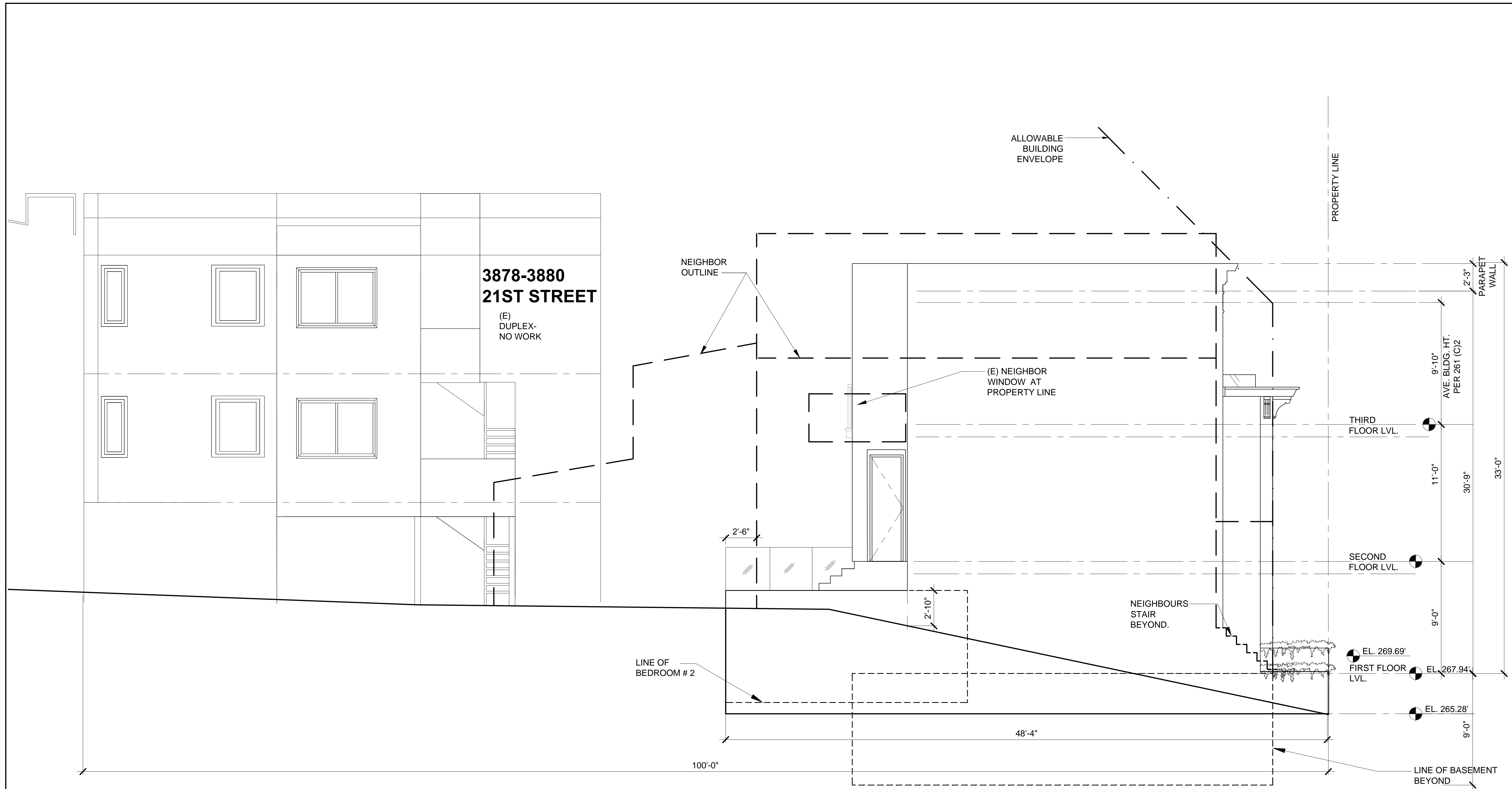
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ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

DRAWING TITLE:  
**PROPOSED SOUTH ELEVATION**

DRAWING NUMBER:

**A-2.1 ALT**



1 NORTH ELEVATION - PROPOSED

Scale: 1/4" = 1'-0"

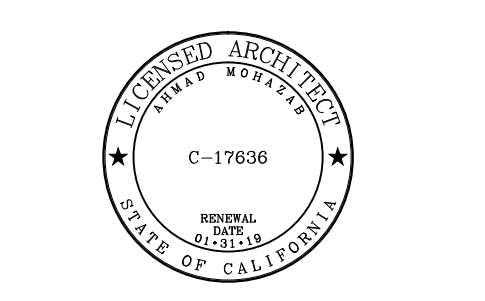


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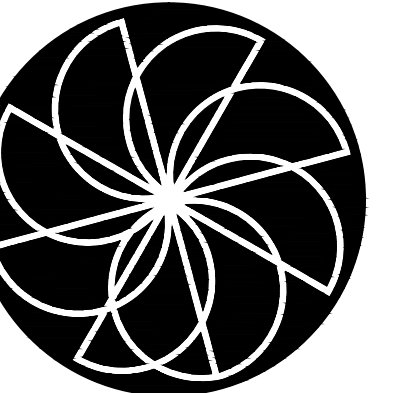
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ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

DRAWING TITLE:  
**PROPOSED  
 NORTH  
 ELEVATION**

DRAWING NUMBER:

**A-2.2 ALT**



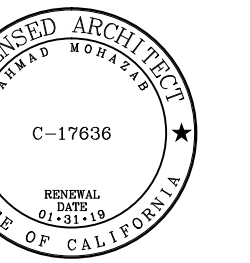
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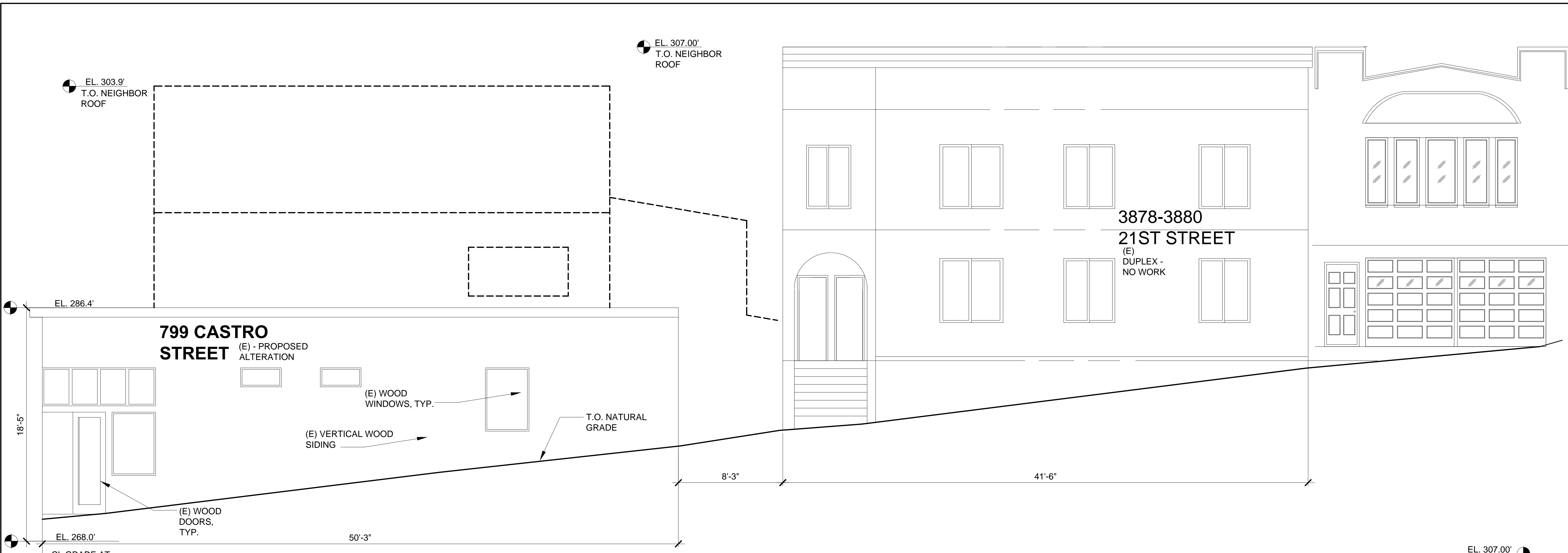
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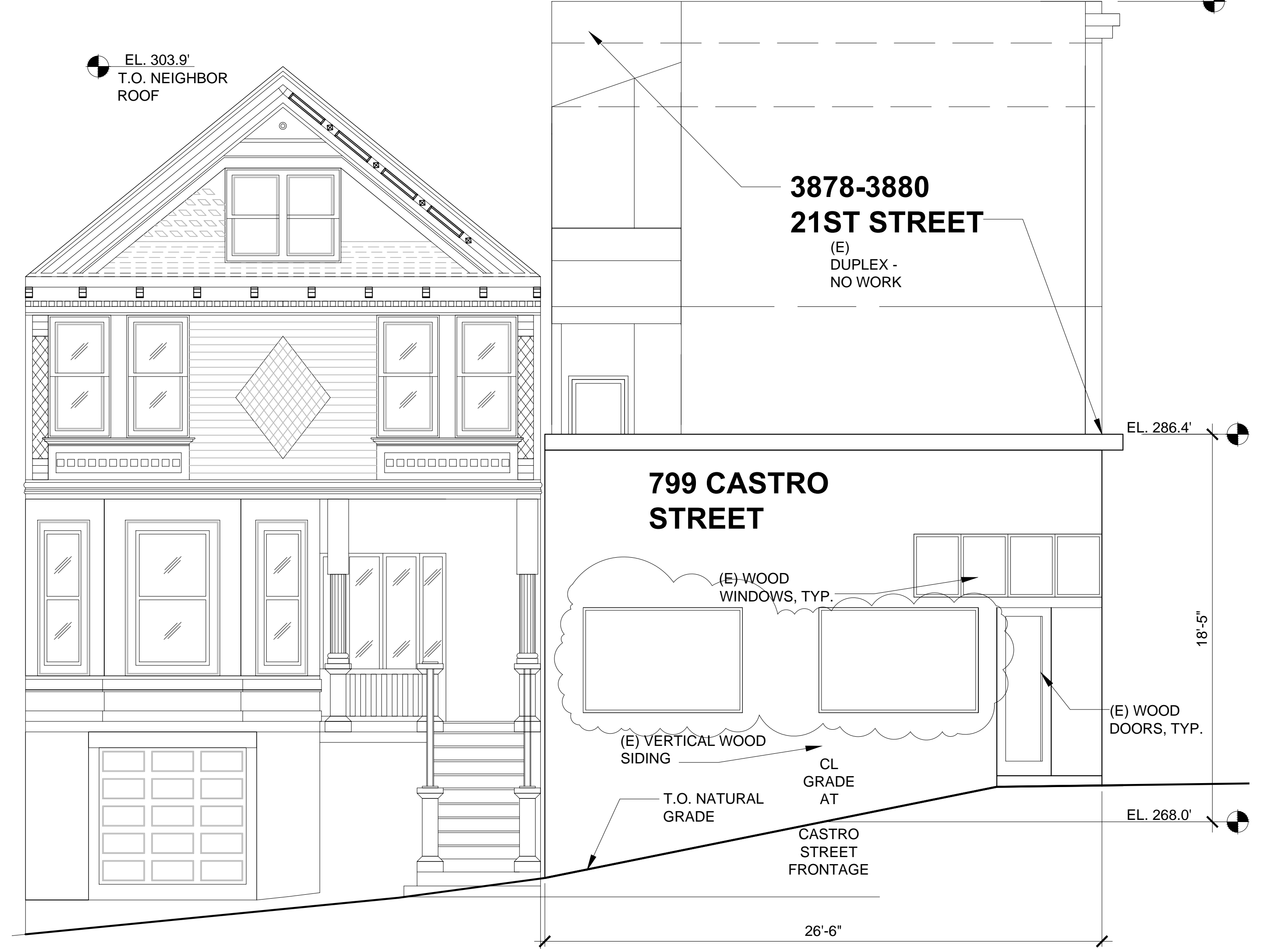
**NEW RESIDENCE**  
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 SAN FRANCISCO, CA 94114



**3 SOUTH ELEVATION - 21ST STREET - EXISTING**  
 Scale: 1/4" = 1'-0"



**2 EAST ELEVATION - 799 CASTRO STREET - EXISTING**  
 Scale: 1/4" = 1'-0"



**1 WEST ELEVATION - CASTRO STREET - EXISTING**  
 Scale: 1/4" = 1'-0"

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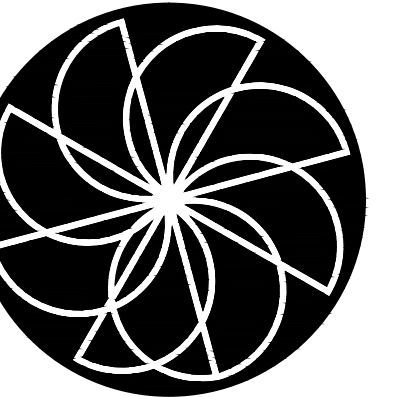
ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

DRAWING TITLE:  
**EXISTING ELEVATIONS**

DRAWING NUMBER:

**A-2.3 ALT**





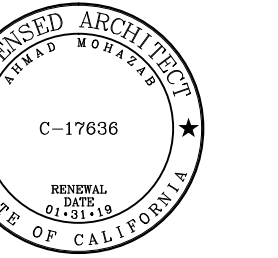
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ARCHITECTURAL PROJECT NO.:

**NEW RESIDENCE**  
 799 CASTRO  
 SAN FRANCISCO, CA 94114

NOTE: CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CITY OF SAN FRANCISCO'S DEPARTMENT OF PUBLIC WORKS AND ENGINEERING'S (DPWE) STANDARD SPECIFICATIONS FOR CONSTRUCTION. THESE PLANS ARE COPYRIGHTED AND SUBJECT TO COPYRIGHT PROTECTION AS AN ARCHITECTURAL WORK UNDER TITLE 17 OF THE COPYRIGHT ACT, 17 U.S.C. AND AMENDED THEREIN AND WILL BE SUBJECT TO THE TERMS OF THE LICENSE AND ALL OF THE PROVISIONS AND CONDITIONS OF THE LICENSE AS WELL AS THE ARRANGEMENT AND COMPOSITION OF SPACES AND ELEMENTS OF THE DESIGN.

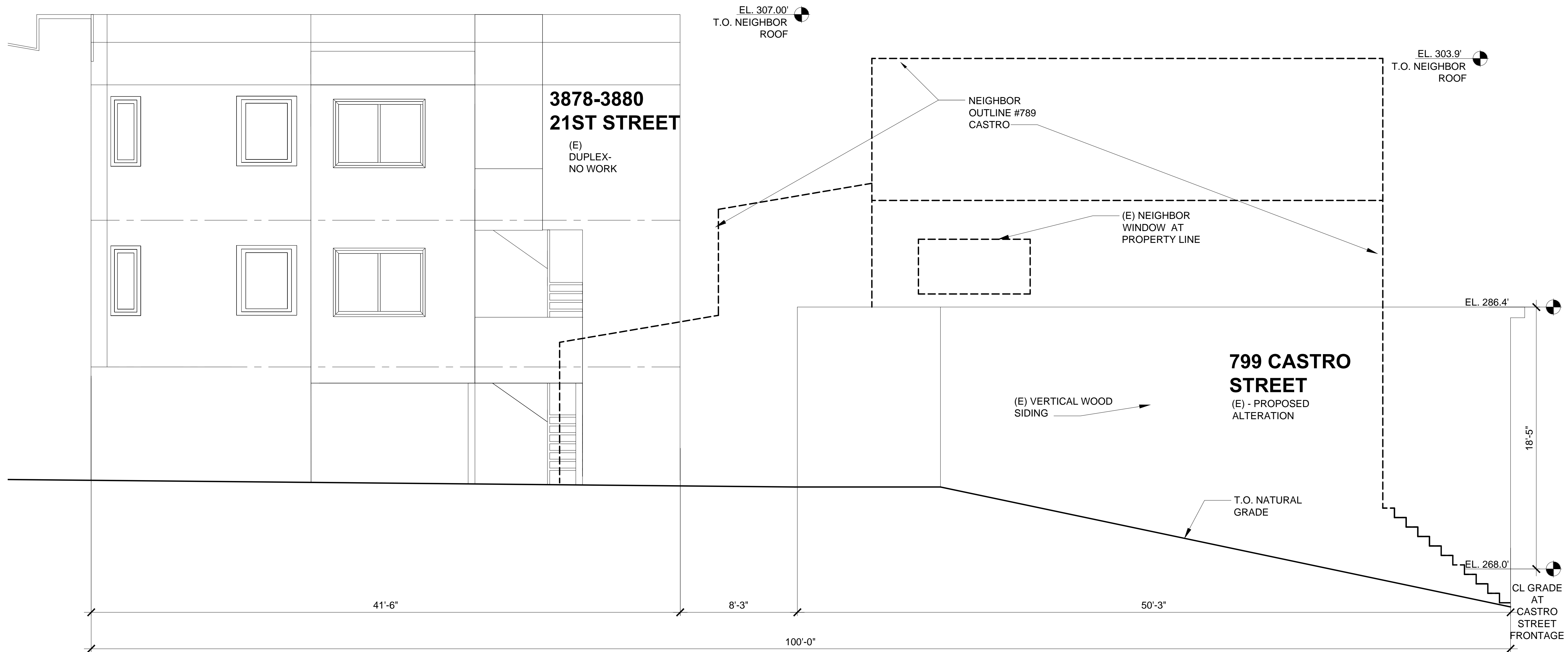
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ISSUE DATE: 02-09-18  
 SPACE PLAN: 02-10-18

DRAWING TITLE:  
**EXISTING NORTH ELEVATION**

DRAWING NUMBER:

**A-2.4 ALT**



1 NORTH ELEVATION - EXISTING

Scale: 3/16" = 1'-0"

## **EXHIBIT C**

10/08/17

I have reviewed the project proposed for 799 Castro Street San Francisco CA to build a single-family home replacing the existing commercial building and the addition of a rent controlled dwelling unit to the existing residential building at 3878-3880 21st Street.

**I support the project:**

3844 21st Street  
Address \_\_\_\_\_ Signature \_\_\_\_\_

3862 21<sup>st</sup> St  
Address \_\_\_\_\_ Signature \_\_\_\_\_

3866 21<sup>st</sup> Street  
Address \_\_\_\_\_ Signature \_\_\_\_\_ (Renter)

Fill  
Hand  
returning } 847 Castro St #2  
Address \_\_\_\_\_ Signature \_\_\_\_\_

Address \_\_\_\_\_ Signature \_\_\_\_\_

Address \_\_\_\_\_ Signature \_\_\_\_\_

Address \_\_\_\_\_ Signature \_\_\_\_\_

Address \_\_\_\_\_ Signature \_\_\_\_\_

2

10/08/17

I have reviewed the project proposed for 799 Castro Street San Francisco CA to build a single-family home replacing the existing commercial building and the addition of a rent controlled dwelling unit to the existing residential building at 3878-3880 21st Street.

**I support the project:**

3878 21st St.

Address

Mary S. Buzzi

Signature

3878 21st St.

Address

Richard A. Pasik

Signature

3859 21st St

Address



Signature

3855 21st St. #1

Address



Signature

Address

Signature

Address

Signature

Address

Signature

Address

Signature



10/08/17

I have reviewed the project proposed for 799 Castro Street San Francisco CA to build a single-family home replacing the existing commercial building and the addition of a rent controlled dwelling unit to the existing residential building at 3878-3880 21st Street.

**I support the project:**

3837 21<sup>st</sup> St.  
Address Signature

3837 21<sup>st</sup> St  
Address Signature

3829 21<sup>st</sup> St  
Address Signature

3819 21<sup>st</sup> St.  
Address Signature

3819 21<sup>st</sup> St  
Address Signature

914 Nor St  
Address Signature


508 Hill St  
Address Signature

72A HILL STREET  
Address Signature

10/08/17

I have reviewed the project proposed for 799 Castro Street San Francisco CA to build a single-family home replacing the existing commercial building and the addition of a rent controlled dwelling unit to the existing residential building at 3878-3880 21st Street.

**I support the project:**

536 Hill St.   
Address Signature

544 Hill St.   
Address Signature

Address Signature

Address Signature

Address Signature

Address Signature

Address Signature

Address Signature

10/08/17

I have reviewed the project proposed for 799 Castro Street San Francisco CA to build a single-family home replacing the existing commercial building and the addition of a rent controlled dwelling unit to the existing residential building at 3878-3880 21st Street.

**I do not object the project:**

3825 21<sup>st</sup> St



Signature

Address

Signature

Address

Signature

Address

Signature

Address

Signature

Address

Signature

Address

Signature

Address

Signature

10/08/17

I have reviewed the project proposed for 799 Castro Street San Francisco CA to build a single-family home replacing the existing commercial building and the addition of a rent controlled dwelling unit to the existing residential building at 3878-3880 21st Street.

**I do not object the project:**

827 Castro St.   
Address Signature

~~827~~  
Address Signature

Address Signature

Address Signature

Address Signature

Address Signature

Address Signature

Address Signature

11/16

847

10/10/17  
~~10/08/17~~

I have reviewed the project proposed for 799 Castro Street San Francisco CA to build a single-family home replacing the existing commercial building and the addition of a rent controlled dwelling unit to the existing residential building at 3878-3880 21st Street.

**I support the project:**

3944 21st STREET  
Address Signature

3953 21<sup>st</sup> St.  
Address Signature

3955 21<sup>st</sup>  
Address Signature

3944 21st St  
Address Signature

3924 21st St  
Address Signature

3836 21<sup>st</sup> St.  
Address Signature

Address Signature

Address Signature



**From:** Mary Buggie <[mbuggiesf@gmail.com](mailto:mbuggiesf@gmail.com)>  
**Subject:** Comments re Application Nos. 2016.04.04.3134 and 2014.09.19.6883  
**Date:** December 12, 2017 at 6:50:08 PM PST  
**To:** [Nancy.H.Tran@sfgov.org](mailto:Nancy.H.Tran@sfgov.org)  
**Cc:** Richard Pask <[richepask@gmail.com](mailto:richepask@gmail.com)>

Dear Ms. Tran,

I am writing to you on behalf of myself and Richard Pask, 13+ year tenants of 3878 21st Street, 94114. We would like to express our support for the building projects under Building Permit Application Nos. 2016.04.04.3134 and 2014.09.19.6883. We have been shown the plans for the construction to take place on the lot (specifically at 799 Castro Street) by Hatef Moghimi and look forward to the proposed improved building as we feel it will be an appropriate upgrade for the lot and neighborhood. We have no issue with the proposed variance of only a 10 foot separation between the proposed building and the existing building in which we reside.

If you have any questions or require any follow-up, please do not hesitate to contact us.

Best regards,

Mary Buggie ([mbuggiesf@gmail.com](mailto:mbuggiesf@gmail.com))

Richard Pask ([richepask@yahoo.com](mailto:richepask@yahoo.com))

3878 21st Street

San Francisco, CA 94114

**EXHIBIT D**



# SAN FRANCISCO PLANNING DEPARTMENT

---

## Letter of Determination

February 6, 2018

Ryan Patterson  
Zacks, Freedman & Patterson, PC  
235 Montgomery Street, Suite 400  
San Francisco, CA 94104

Site Address:	799 Castro Street / 3878-3880 21 <sup>st</sup> Street
Assessor's Block/Lot:	3603/024
Zoning District:	RH-2 (Residential-House, Two-Family)
Staff Contact:	Nancy Tran, (415) 575-9174 or <a href="mailto:nancy.h.tran@sfgov.org">nancy.h.tran@sfgov.org</a>
Record No.:	2017-014202ZAD

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

Dear Mr. Patterson:

This letter is in response to your request for a Letter of Determination regarding the property at 799 Castro Street / 3878-3880 21<sup>st</sup> Street. The subject parcel is a corner lot located at Castro and 21<sup>st</sup> Streets within the RH-2 (Residential-House, Two Family) Zoning District and 40-X Height and Bulk District. The request seeks to determine the process required to demolish and construct a new structure at 799 Castro Street.

1. *Can the Project's conditional use application to demolish the existing dwelling at 799 Castro Street be approved before the City has granted final approval of a building permit for construction of the replacement building?*

Yes. Pursuant to Planning Code Section 317(d)(2), "Conditional Use Authorization is required for approval of the permit for Residential Demolition, and the Commission shall consider the replacement structure as part of its decision on the Conditional Use application." On September 19, 2014, the property owner filed Building Permit Application No. 201409196883 to allow for alterations to the subject building. Those alterations are considered to be a Residential Demolition per Planning Code Section 317. On April 13, 2017, the property owner submitted an application for the required Conditional Use Authorization (Case No. 2017-004562CUA) to allow the scope of work sought under Building Permit Application No. 201409196883.

It is noted that your request cites a passage in Planning Code Section 311(e), which states "an application authorizing demolition in any R District...of a dwelling shall not be approved and issued until the City has granted final approval of a building permit for construction of the replacement building." In presuming that your request seeks clarification on the applicability of this section, it is noted that Section 311 establishes "procedures for reviewing building permit

applications for lots in R Districts." As such, the "application" referenced in Section 311(e) is a building permit application, not an application for Conditional Use Authorization.

2. *Which portion of the structure at 799 Castro Street constitutes the residential use?*

The previous residential use area within the structure is not evident and therefore cannot be distinguished from the non-conforming commercial use.

3. *Is it possible to demolish only the residential use at 799 Castro Street without demolishing the commercial use?*

As noted previously, the prior residential use area cannot be distinguished from the non-conforming commercial use.

4. *Is it possible to demolish and "re-establish" a rent-controlled dwelling unit in one building (799 Castro Street) as an ADU in another building (3878-3880 21<sup>st</sup> Street)?*

The Dwelling Unit at 799 Castro Street may be demolished with a Conditional Use Authorization pursuant to Planning Code Section 317, and a new Accessory Dwelling Unit (ADU) may be established on the same property if it meets the requirements of Planning Code Section 207(c)(4), particularly that it be "constructed entirely within the 'living area' (as defined in subsection (c)(6)(B)(iii)) or the buildable area of an existing single-family home or within the built envelope of an existing and authorized auxiliary structure on the same lot

5. *Has a building permit application been filed or been finally issued for the Project replacement structure?*

As noted previously, Building Permit Application No. 201409196883 was submitted for the scope of work proposed for 799 Castro Street. The scope of work sought under this permit requires Conditional Use Authorization and a Variance from the Planning Code. As such, the subject permit cannot be approved until such authorizations are received.

6. *Prior to the final approval of the Project's variance application, is the Project in compliance with development standards of the Planning Code?*

As noted previously, Building Permit Application No. 201409196883 requires Conditional Use Authorization and a Variance from the Planning Code. Planning Department staff reviewed the subject plans and determined that the project complies with all other applicable provisions of the Planning Code, including the Residential Design Guidelines.

7. *Prior to the final approval of the Project's variance application, can the Project's conditional use application be granted?*

Because the Project requires both Conditional Use Authorization and a Variance from the Planning Code, a joint hearing with the Planning Commission and Zoning Administrator was conducted on December 14, 2017, and continued to February 22, 2018, so that all aspects of the project are considered at the same time. The Planning Commission can take action prior to the issuance of the Zoning Administrator's written decision on the Variance. That said, the subject building permit application cannot be approved by the Planning Department until the required Conditional Use Authorization and Variance are both obtained.

8. *Once the commercial use at 799 Castro Street is changed, will that residential use be a conforming use or a nonconforming use?*

Removal of the existing commercial use will bring the property closer into conformity with Planning Code, as a residential use is principally permitted in the RH-2 Zoning District. Because the subject property contains three existing Dwelling Units where two Dwelling Units are permitted under the base density, one unit will be considered a legal, nonconforming Dwelling Unit. Under the Planning Code, the owner may designate which one of the three units is nonconforming. Once the nonconforming unit is designated, that unit is subject to the limitations outlined in Planning Code Section 181(c). Under the Planning Code, the existing residential use at 799 Castro Street may be expanded beyond the current building envelope if the owner designates the dwelling unit in the structure as one of the two conforming Dwelling Units on site.

9. *Once the commercial use at 799 Castro Street is changed to a residential use, can that the residential use be expanded to extend beyond the building envelope as it existed on January 1, 2013?*

See response to Question 8.

10. *What is the minimum setback required by the Planning Code between the two proposed structures at the Project site?*

Planning Code Section 134 requires a rear yard of 25% of the total lot depth or 15 feet (whichever is less) between two residential buildings on the same lot. Because the subject lot depth is 100 feet, a minimum separation of 25 feet is required under the Planning Code.

11. *From which Planning Code subsections does the Project require variances? Does the Project's variance application seek variances from these subsections' requirements?*

Based on the latest plan set dated September 20, 2017, the Project requires Variances from the front setback and rear yard requirements of the Planning Code. Planning Code Section 132 requires a front setback of 4 feet 5 inches from the front property line. The proposal is to construct to the front property line; therefore, the proposal requires a Variance from the front setback requirement of Planning Code Section 132. As noted previously, Planning Code Section 134 requires a rear yard of 25 feet between the two buildings. The proposal



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February 6, 2018  
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799 Castro Street / 3878-3880 21st Street

provides a separation of 10 feet between the two buildings; therefore, the project requires a Variance from the rear yard requirement of Planning Code Section 134.

**Please note that a Letter of Determination is a determination regarding the classification of uses and interpretation and applicability of the provisions of the Planning Code. This Letter of Determination is not a permit to commence any work or change occupancy. Permits from appropriate Departments must be secured before work is started or occupancy is changed.**

**APPEAL:** If you believe this determination represents an error in interpretation of the Planning Code or abuse in discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within 15 days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals located at 1650 Mission Street, Room 304, San Francisco, or call (415) 575-6880.

Sincerely,



Corey A. Teague  
Acting Zoning Administrator

cc: Property Owner  
Nancy Tran, Planner  
Neighborhood Groups